

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA 18-CR-6094(G)
vs.
XAVIER TORRES, Rochester, New York
Defendant. October 26, 2021
8:30 a.m.
- - - - -X

VOLUME 6

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE FRANK P. GERACI, JR.
UNITED STATES DISTRICT JUDGE

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I N D E X

WITNESS FOR THE GOVERNMENT

Jose Figueroa

Direct examination by Ms. Kocher Page 544

Cross-examination by Mr. Verrillo Page 598

Redirect examination by Ms. Kocher Page 623

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Axel Aponte Camacho

Direct examination by Mr. Marangola Page 636

EXHIBIT

RECEIVED

Government 344

631

P R O C E E D I N G S

* * *

(WHEREUPON, the defendant is present).

THE COURT: Good morning.

MS. KOCHER: Good morning, Judge.

MR. MARANGOLA: Good morning.

MR. VERRILLO: Good morning, Your Honor.

(WHEREUPON, the jury is present).

THE COURT: Good morning, members of the jury.

Ready to proceed, you may recall your witness.

MS. KOCHER: Yes, Your Honor, the Government recalls
Jose Figueroa.

(WHEREUPON, the interpreter was sworn).

THE COURT: I remind you you remain under oath. Do
you understand?

THE WITNESS: Yes.

THE COURT: You may remove your mask since you're
behind the plexiglas. Thank you. You may proceed.

MS. KOCHER: Thank you.

BY MS. KOCHER:

Q. Good morning, Mr. Figueroa.

A. Good morning.

Q. Now, Mr. Figueroa, did we meet after court yesterday?

A. If we met?

Q. Did you and I speak after court yesterday?

1 A. Yes.

2 Q. When we spoke yesterday did you bring up some concerns
3 about the interpreter yesterday?

4 A. Yes.

5 Q. What were your concerns?

6 A. The interpreter didn't allow me to finish what I had to
7 say.

8 Q. There were points in your testimony where he would tell
9 you to stop?

10 A. Yes.

11 Q. Now, today we have a different interpreter; is that
12 correct?

13 A. Yes.

14 Q. Are you having any trouble understanding today's
15 interpreter?

16 A. No.

17 Q. Okay. I'll remind you as I did yesterday if at any point
18 you have any issues understanding, please let me or Mr.
19 Verrillo the defense attorney know.

20 A. Okay.

21 Q. All right. Now, Mr. Figueroa, yesterday we discussed how
22 you sold cocaine and heroin daily for a few months on -- or
23 several months on Burbank Street?

24 A. Where was it?

25 Q. On Burbank Street.

1 A. Yes.

2 Q. And you mentioned a brown house and then a house across
3 the street that was blue and white that you sold from; is that
4 correct?

5 A. Yes.

6 Q. I'd like to show you what's been received into evidence as
7 Government's Exhibit 44. Now, this was the brown house that
8 you discussed selling cocaine and heroin from; is that
9 correct?

10 A. Yes, that's where I started selling drugs.

11 Q. Okay. And when you were selling drugs from this house, was
12 it in that condition?

13 A. No.

14 Q. What was different about it?

15 A. The burning around the window.

16 Q. Okay. Those were not there when you were working in the
17 house?

18 A. No.

19 Q. Now, I'd like to show you what's also been received into
20 evidence as Government's Exhibit 67. Do you recognize the
21 house in this photo?

22 A. That's the same one, but it didn't look that way.

23 Q. Okay. What was different about it when you worked there?

24 A. The door there, used to be a board on the door. Now you
25 can see the door. It wasn't the same color.

1 Q. Now, the door that had a board on it when you worked
2 there, is that the front door on the porch?

3 A. Yes.

4 Q. Do you see a number on that porch?

5 A. Yes.

6 Q. What number is on the front of that house?

7 A. 14.

8 Q. Okay. Now, yesterday you also talked about how you moved
9 from this house across the street, correct?

10 A. Yes.

11 Q. I'd like to show you what you viewed yesterday as
12 Government's Exhibit 45. Now, the house in the middle of this
13 photograph is the house that you moved to across the street;
14 is that correct?

15 A. Yes, that's the house in the middle.

16 Q. Okay. And I think our monitor is working now. Would you
17 mind drawing a circle around the house? Thank you.

18 You've drawn a green circle around the house in the
19 center. That's a blue and white house?

20 A. Yes.

21 Q. Okay. Ms. Rand, could you clear those marks? Thank you.

22 All right, Mr. Figueroa, I'd like to now have you
23 take a look at Government's Exhibit 114. Do you recognize the
24 house in this photo?

25 A. Yes.

1 Q. What house is that?

2 A. That's the white and blue house where we moved to sell
3 drugs.

4 Q. So is that the same house we were just looking at in the
5 last photograph?

6 A. Yes.

7 Q. And do you see a number on that house?

8 A. 11.

9 Q. Okay. All right. Now Mr. Figueroa, you also -- if we could
10 pull up Government's Exhibit 1? This is the chart of
11 photographs that you viewed yesterday; is that correct?

12 A. Yes.

13 Q. Now that the monitor is working today, I'd like to have
14 you mark some of the people you identified. Beginning with
15 the defendant who you knew as Pistolita, could you please
16 circle his photograph on Government's Exhibit 1? You've
17 circled the photograph in the fourth row, I'm sorry, the third
18 row, fourth from the left; is that correct?

19 A. Yes.

20 Q. Okay. And what was the defendant's role in the drug
21 dealing that was going on on Burbank Street?

22 **THE COURT:** Didn't we do all this yesterday?

23 **MR. VERRILLO:** Yes, objection.

24 **THE COURT:** It's like Ground Hog Day.

25 **MS. KOCHER:** Judge, I apologize. With the

1 interpreter issues yesterday I felt like it was a little bit a
2 game of guess who.

3 **THE COURT:** We're not going to go over what we did
4 yesterday, so move it along.

5 **MS. KOCHER:** May I have him identify the people in
6 Government's Exhibit 1 just by marking --

7 **THE COURT:** Didn't we do that yesterday?

8 **MS. KOCHER:** I did, Your Honor, because,
9 unfortunately, because the monitor wasn't working I had to ask
10 many questions. I just wanted to be clear we were talking
11 about the same people.

12 **THE COURT:** Go ahead.

13 **MS. KOCHER:** Thank you.

14 **BY MS. KOCHER:**

15 Q. Now, Mr. Figueroa, you also identified somebody as Roberto
16 on Government's Exhibit 1. Could you please circle that
17 individual with a circle? You've circled in the second row
18 the individual on the right that is a male in a white tank
19 top?

20 A. Yes.

21 Q. You also identified an individual by the name of Yankee.
22 Could you please circle that individual? You've circled the
23 individual on the third row, second from the right, has what
24 appears to be a black hooded sweatshirt on; is that correct?

25 A. Yes.

1 Q. Now, you also identified the individuals on the bottom
2 row; is that correct?

3 A. Yes.

4 Q. All right. Starting from the left, could you please
5 circle that individual and identify him by name?

6 A. This is Rafi, my stepfather.

7 Q. Okay. And now moving to the photograph to the right, who
8 is that individual?

9 A. That's Palito, P-A-L-I-T-O, with a red shirt.

10 Q. And to the right of Palito, who is that?

11 A. Dino with a white shirt.

12 Q. Okay. And the final individual in that fourth and bottom
13 row, who is that?

14 A. That's Canito, C-A-N-I-T-O.

15 Q. Okay. Now, Mr. Figueroa, yesterday you mentioned most of
16 us were users. Who were you referring to when you said that?

17 A. The ones who worked.

18 Q. The ones who worked where?

19 A. The ones who worked in the brown house almost all of -- in
20 the brown house where we sold drugs, almost all of us were
21 users.

22 Q. Okay. So the individuals that were selling from the houses
23 were drug users generally?

24 A. Yes.

25 Q. And those are the individuals in the bottom row on

1 Government's Exhibit 1?

2 A. Yeah, almost all of them except for Canito are users.

3 Q. Now, the female in the second row, do you know who that
4 individual is?

5 A. No.

6 Q. And yesterday I also believe you identified someone you
7 knew as Axel. Could you please circle that person?

8 A. Yes. This one right here.

9 Q. And that's in the third row second from the left?

10 A. Yes.

11 Q. Okay. The other two males that are not circled in the
12 third row -- I'm sorry, let me ask the last individual on the
13 third row. Do you recognize that individual all the way to
14 the right?

15 A. Yes, Tapon, T-A-P-O-N.

16 Q. Okay. Now, there's two individuals on the third row that
17 are not circled; is that correct?

18 A. Yes.

19 Q. And that's the male farthest to the left and also the male
20 in the black T-shirt third from the left?

21 A. Yes.

22 Q. Do you know who those two men are?

23 A. No.

24 Q. All right. Now, Mr. Figueroa, yesterday I believe we ended
25 talking about a firearm that was kept in the brown house 14

1 Burbank Street. If we could go back to Exhibit 44, please.

2 Ms. Rand, would you mind clearing the marks? Thank you.

3 All right, was the firearm kept in the house
4 located in Government's Exhibit 44?

5 A. Yes.

6 Q. Where was that kept?

7 **MS. KOCHER:** Your Honor, I'm sorry, can the
8 interpreter interpret simultaneously when the witness is
9 speaking?

10 **THE COURT:** The problem yesterday was he couldn't
11 finish his answer. Now he's finishing his answer. Now you
12 have a problem with that. Go ahead.

13 **THE WITNESS:** The weapon was kept in the kitchen.
14 Every time Pistolita came for the money Rafi would go out and
15 make sure he was safe. And we kept the gun in the house just
16 to protect the drugs and the money.

17 **BY MS. KOCHER:**

18 Q. How did you know the gun was there?

19 A. Rafi had showed it to me and told me that anything happen,
20 that's where it would be right underneath the sink.

21 Q. Okay. When he said if anything happened, what did he mean?

22 **MR. VERRILLO:** Objection, speculation.

23 **THE COURT:** Sustained.

24 **BY MS. KOCHER:**

25 Q. When he said if anything happened, what did you take that

1 to mean?

2 **MR. VERRILLO:** Objection.

3 **THE COURT:** He can say what he meant. What he
4 understood. Overruled. You can answer that question.

5 Did you understand the question?

6 **THE WITNESS:** Mm-hmm. If they came to rob us, stuff
7 like that.

8 **BY MS. KOCHER:**

9 Q. And you also mentioned when Pistolita would come pick up
10 the money, Rafi would follow him out?

11 A. Yes, to make sure that he made it safely to the house.

12 Q. Safely to what house?

13 A. Where Pistolita lived on 6 Burbank.

14 Q. Was that the white house that you saw a photo of
15 yesterday?

16 A. Yes.

17 Q. When Rafi would follow Pistolita out when he was taking
18 the money from 14 Burbank Street did Rafi take anything with
19 him?

20 A. He had the gun on him.

21 Q. Rafi would take the gun out to watch Pistolita walk down
22 the street?

23 A. Yes.

24 Q. Did you ever talk to the defendant about guns?

25 A. One time there was an incident that happened on Ketchum

1 Street.

2 Q. K-E-T-C-H-U-M?

3 A. Something like that.

4 Q. Okay. What happened on Ketchum Street?

5 A. So I was selling Ketchum Street and a black guy came over
6 and said that I couldn't be selling there. He showed up in a
7 motorcycle and said that everything was fine. And that he was
8 carrying the .45 with him, the gun.

9 Q. Who showed up on a motorcycle?

10 A. Pistolita.

11 Q. Okay. And that's the individual you identified as the
12 defendant yesterday?

13 A. Yes.

14 Q. Okay. When he said he had a .45, what did you take that to
15 mean?

16 A. That he had the gun on him.

17 Q. Okay. And what does the .45 refer to?

18 **MR. VERRILLO:** Objection.

19 **THE COURT:** Overruled. Go ahead, you can answer
20 that.

21 **THE WITNESS:** The millimeters, the gun, 45
22 millimeters.

23 **BY MS. KOCHER:**

24 Q. Did you know the defendant -- you mentioned he was on a
25 motorcycle that day. Did he have any vehicles that he

1 regularly used?

2 **THE INTERPRETER:** I'm clarifying the color.

3 **THE WITNESS:** So he had a van, golden color van.

4 **BY MS. KOCHER:**

5 Q. Any other cars that he used?

6 A. No, once he used my van.

7 Q. You never saw him drive any other cars?

8 A. No.

9 Q. What did your van look like?

10 **THE INTERPRETER:** Can you repeat the question?

11 **BY MS. KOCHER:**

12 Q. What did your van look like?

13 A. It was a Honda, a red Honda.

14 Q. How many doors?

15 A. Two.

16 Q. Now, yesterday you were discussing your sales out of 14
17 and 11 Burbank, the brown house and the house across the
18 street. Who was it that brought you drugs when your supply
19 was low?

20 **MR. VERRILLO:** Objection, asked and answered.

21 **THE COURT:** Sustained.

22 **BY MS. KOCHER:**

23 Q. Where were the drugs that you sold from 14 and 11 Burbank
24 coming from?

25 **MR. VERRILLO:** Objection.

1 **THE COURT:** Sustained.

2 **MS. KOCHER:** Your Honor, may I have a little leeway
3 here?

4 **THE COURT:** Go ahead. Ask the question again.

5 **BY MS. KOCHER:**

6 Q. Mr. Figueroa, where were the drugs that you sold at 14 and
7 11 Burbank coming from?

8 A. From Pistolita.

9 Q. Okay. And do you know where Pistolita would get the supply
10 of drugs?

11 A. Not exactly.

12 Q. Okay. Do you have -- well, what do you mean by that, not
13 exactly?

14 A. So whenever he brought the drugs to us, we wouldn't know
15 where he was getting them, but we knew that it was Robert and
16 Yankee who gave it to him.

17 Q. And how do you know that Robert and Yankee were the people
18 giving the cocaine and heroin to the defendant?

19 A. Whenever we run out of drugs we would call Pistolita, he
20 would say to hold on a few minutes, and then Robert would show
21 up and then Rafi would say that we were fine, we were set.

22 Q. And did something similar like that happen in regard to
23 Yankee as well?

24 A. Yes. If it wasn't Robert, it would be Yankee who would
25 bring it to him.

1 Q. Was Yankee around the entire time you were working on
2 Burbank Street?

3 A. No.

4 Q. Do you know where he went?

5 A. No.

6 Q. Now, other than yourself and the people selling from the
7 houses, the defendant who was supplying you with what you were
8 selling, Robert and Yankee that you just described as being
9 involved, did anybody else help with the drug sales on Burbank
10 Street?

11 A. Not that I know of. Most of the time Pistolita would
12 bring it -- bring them to us.

13 Q. Okay.

14 A. And the employees, we were always the same.

15 Q. Did you do anything -- were you aware of whether or not
16 the police were in the area while you were selling drugs?

17 A. Sometimes they would go by occasionally.

18 Q. Were you concerned if the police were in the area?

19 A. We had people watching. We would pay \$50 to the addicts
20 so that they would watch for us.

21 Q. Okay. The people that were watching, what did you call
22 them?

23 A. The watchers.

24 Q. Okay. And you would pay them how much?

25 A. 50 bucks a turn. Sometimes Pistolita would pay, sometimes

1 the employees would pay.

2 Q. Okay. When you say the employees, who are you talking
3 about?

4 A. The ones who sold. For example, if I wanted someone to
5 watch out for me I would have to pay them out of my money.

6 Q. Okay. And did those people that were watching out for you
7 also work eight-hour shifts?

8 A. Yes.

9 Q. Where would they sit out on the street?

10 A. Usually they would be in the porch in the white house
11 across the street.

12 Q. Okay. Can we go to Government's Exhibit 45. All right, is
13 that porch that you were just talking about in this
14 photograph?

15 A. Can I mark the screen?

16 Q. Sure.

17 A. This one, that porch.

18 Q. You've placed, I think an X on the house to the left, the
19 little white house?

20 A. Yes. First one on the left.

21 Q. Okay. How would you communicate with the people that were
22 watching the street?

23 A. We had walkie-talkies.

24 Q. Okay. Now, if you were selling and are near the house and
25 you got a call from one of the people watching out for you on

1 a walkie-talkie, what would you do?

2 A. We would look out the window and we would wait to see what
3 the police would do. If the police would come in, we would go
4 to the bathroom and flush the drugs in the bathroom.

5 Q. Okay. And why would you flush the drugs?

6 A. So that the police wouldn't catch them.

7 Q. Now, in addition to looking for the police, were those
8 lookouts watching for anything else on the street?

9 A. No, mainly they were looking out for police.

10 Q. Okay. Was anybody allowed to sell on Burbank Street?

11 A. No.

12 Q. Explain that.

13 A. So the drugs that were sold there are the drugs that were
14 sold there. If anybody else came to sell drugs, that would be
15 a problem. One time we were at the corner of Burbank and
16 Remington and there were some black guys selling so myself,
17 Pistolita and Palito went -- we went and told them they
18 couldn't sell there.

19 Q. Okay. And after you told them -- where were they selling?

20 A. At the corner of Burbank and Remington.

21 Q. Okay. And after you told them -- who was it that told them
22 they couldn't sell there?

23 A. Pistolita told them that they couldn't sell there.

24 Q. Okay. And after he told them that, what happened?

25 A. So those kids used to live a few houses over on Remington.

1 They just continued -- they talked there for a little bit on
2 the corner and that was that.

3 Q. Did they keep selling?

4 A. No.

5 Q. Okay. So they stopped selling after Pistolita told them to
6 stop?

7 A. They stopped, yes.

8 Q. Whose drugs were sold on Burbank Street?

9 A. From what I understood they were Javier's and Pistolita
10 was the one who determined who would sell, who would be
11 watching, what the shifts would be.

12 Q. Okay. And you said from what you understood they were
13 Javier's drugs? How did you come to understand that?

14 A. Everybody knew. My stepfather had told me. When I
15 started working Pistolita told me that I had to talk to Javier
16 to get the go ahead to be able to sell. He was the boss.

17 Q. Javier was the boss?

18 A. Yes.

19 Q. All right. Now, you mentioned that the lookouts were paid
20 \$50 for a shift?

21 A. Yes.

22 Q. Were you paid to sell cocaine and heroin from 14 and 11
23 Burbank?

24 A. Yes.

25 Q. How were you paid?

1 A. So \$1 per bag and \$10 for a bundle.

2 Q. So each envelope of heroin you would earn a dollar?

3 A. Yes.

4 Q. And same for the cocaine?

5 A. Yes.

6 Q. Now, you talked yesterday about how you were also
7 struggling with drug addiction during this time?

8 A. Yes.

9 Q. Were there times where you were paid in drugs instead of
10 money?

11 A. I usually kept 200 in drugs or I would give the rest to
12 Pistolita to hold it for me or I would take it with me.

13 Q. Okay. Who paid you?

14 A. Pistolita always paid us.

15 Q. Would you get paid at the end of your shift?

16 A. It could be that way or you could take it. However, you
17 felt most comfortable.

18 Q. All right. Now you mentioned that sometimes you would have
19 Pistolita hold the money. Why would you do that?

20 A. So that I wouldn't use all of it in drugs.

21 Q. How much would you typically make in an eight-hour shift
22 selling cocaine and heroin on Burbank?

23 A. So it depended on whether it was a good day or a bad day,
24 but I could make sometimes 1,500 or 2,000. I could make some
25 money.

1 Q. 1,500 or \$2,000 in an eight-hour shift?

2 A. Yes.

3 Q. So that means you were selling 1,500 or 2,000 bags in an
4 eight-hour shift?

5 A. If it was a good day, yes.

6 Q. Okay. So what do you mean by a good day?

7 A. A lot of people -- if a lot of people came to buy, if they
8 bought bundles instead of buying baggies.

9 Q. Okay. Were there certain days of the month that might be a
10 better day than others?

11 A. Yes.

12 Q. What days were usually better than others?

13 A. Like the first day of the month, the third day of the
14 month those were the best days. There were some clients who
15 would spend quite a bit of money in one or two hours.

16 Q. Now, typically why was the first or third day of the month
17 better?

18 A. That's usually when people would get their checks or their
19 Social Security or SSI checks.

20 Q. Now, during the time the defendant was bringing you those
21 packages of cocaine and heroin that you discussed yesterday;
22 is that right?

23 A. Yes.

24 Q. On a busy day like the first or the third of the month,
25 how many times would he come make a delivery?

1 A. Three or four times.

2 Q. And how much would he bring each of those times?

3 A. So like one package usually contained 20 bundles and he
4 would bring three or four packages each time.

5 Q. So 20 bundles of heroin?

6 A. Yes.

7 Q. And each trip on a busy day he would bring about three or
8 four of those packages?

9 A. On a good day, yeah.

10 Q. So that would be about 60 or 80 bundles of heroin?

11 A. Yes.

12 Q. And each bundle has ten individual bags of -- or envelopes
13 of heroin in it?

14 A. Yes.

15 Q. So that's about 600 or 800 individual envelopes of heroin
16 just in one trip or one delivery?

17 A. Something like that.

18 Q. Okay. How about the cocaine on a busy day? About what
19 would the defendant bring in one of those deliveries of
20 cocaine?

21 A. So the packages had 50 baggies. He would bring four or
22 five packages. Cocaine usually sold more than heroin.

23 Q. Okay. So four or five packages of cocaine, one package had
24 50 bags of cocaine?

25 A. Yes.

1 Q. So that would be about 200 or 250 bags of cocaine in one
2 delivery?

3 A. Yeah, four packages are 200, yes.

4 Q. Now, how about on slower days? About how many deliveries
5 would the defendant make?

6 A. Maybe two, he would bring two packages, sometimes three so
7 that he wouldn't have to come back.

8 Q. Okay. So two or three packages in one delivery?

9 A. Yes.

10 Q. And about how many deliveries would he make on a slow day?

11 A. If it was slow, that might be all that he would bring.
12 Sometimes it was so slow that your shift would end and you
13 would still have stuff from earlier in the morning.

14 Q. Okay. If you had a left over supply of cocaine or heroin
15 at the end of your shift, what would you do with it?

16 A. Sometimes he would let you finish it out or sometimes he
17 would tell you to give it to the next person. Whatever he
18 would want.

19 Q. And who is the "he" that you're talking about?

20 A. Pistolita.

21 Q. And you just pointed over at the defendant?

22 A. Yes.

23 Q. What was the most you ever saw the defendant deliver to
24 you while you were selling at 11 and 14 Burbank?

25 A. I couldn't tell you an exact amount. It depended on how

1 the day was going.

2 Q. Do you remember what the biggest delivery was that you
3 ever saw?

4 A. I think it was five packages at night which we didn't
5 finish selling until around noon of the next day.

6 Q. Okay. Was that five packages of heroin and five packages
7 of cocaine?

8 A. Usually more heroin, maybe three or four cocaine. Usually
9 the nights were not that good. I usually -- he would visit at
10 night so we would have drugs in the morning is when most
11 people would come. They would be sick in the morning and they
12 would come in the morning. And he didn't get up early in the
13 morning to see what was going on.

14 Q. When you say "he," who do you mean?

15 A. Pistolita.

16 Q. Now, you've described some of the things that the
17 defendant did with you on Burbank Street. Did that job have a
18 title or a name?

19 A. What do you mean by a title?

20 Q. Was there a name for what the defendant did bringing you
21 drugs and taking money away?

22 A. No. Usually we would call him and say that we needed some
23 coffee or some milk.

24 Q. Okay. When you said coffee or milk, what were you
25 referring to?

1 A. Drugs. Coffee was heroin and milk was cocaine.

2 Q. Did you have any other code words for cocaine or heroin
3 besides milk and coffee?

4 A. No, that's what we used. That's what we said.

5 Q. You ever heard the term boy or girl?

6 A. Yeah, but that was for the clients. They would ask two
7 boys, three girls. That would be two heroin, three cocaine.
8 But everybody knew those terms so we would not use them on the
9 phone.

10 Q. Okay. So boy means heroin?

11 A. Yes.

12 Q. And girl means cocaine?

13 A. Yes.

14 Q. So you mentioned everybody knew what those terms mean.
15 When you say "everyone," what do you mean?

16 A. All the addicts and the people selling drugs, everybody
17 knew that boy was heroin and girl was cocaine.

18 Q. Okay. How about the police?

19 A. Yeah, they know.

20 Q. Okay. So when you were talking to other members that you
21 were selling drugs with and other workers, you wouldn't use
22 boy and girl?

23 A. No.

24 Q. Now, yesterday you talked about how Rafi was often off on
25 the count. Do you remember talking about that?

1 A. Yes.

2 Q. Okay. And when you say the count, what are you referring
3 to?

4 A. When he would hand over the money, he would be short.

5 Q. Okay. And when he would hand over the money to who?

6 A. To Pistolita.

7 Q. While you were working with your stepfather Rafi on
8 Burbank Street, did he have any other issues besides
9 miscounting the money or being off?

10 A. Mainly his problem was that he was always short.

11 Q. Okay. Were there ever drugs missing when Rafi was working?

12 A. So his problem was that he would do cocaine and he would
13 hallucinate and then he would lose track of where he left the
14 drugs. He would say that he lost them, he didn't know where
15 they were or that they were stolen and then he would have to
16 make up for the whatever was lost.

17 One time he lost a package and I had to pay for it.

18 Q. Okay. What did you have to do to make up for the package
19 that Rafi lost?

20 A. I had to work to pay off Pistolita and this is towards the
21 end of my working at Burbank.

22 Q. Okay. So you had to work to pay off Pistolita?

23 A. Yes.

24 Q. What type of work did you have to do?

25 A. I sold drugs for free.

1 Q. Okay. And who told you that you had to sell drugs for free
2 to make up for the package Rafi lost?

3 A. So Pistolita said that I had to work for free to pay off
4 the package that my dad had lost. I worked for free to pay
5 off my dad -- my dad's lost package.

6 Q. Okay. And why did you do that?

7 A. So that my dad wouldn't be in trouble, so that there were
8 no -- be no issues with him, so that he wouldn't have to work
9 for free, he had more issues with the sickness than I did.

10 So when that happened they said my dad would have
11 to work for free or he would have no work and they would leave
12 him and he would be sick and I didn't like to see him that
13 way.

14 Q. And you mentioned you didn't want to see your stepdad be
15 in trouble. Who would he be in trouble with?

16 A. With Pistolita. I didn't want him to be in trouble with
17 him, to be entrusted for him or to anything to happen to him.
18 And my dad Javier had -- clarification. That my dad had told
19 me that Javier had beat him or hit him a few times in the
20 past.

21 Q. And you mentioned Rafi would be sick. Was that sickness
22 from his addiction and withdrawal symptoms?

23 A. Yes, his addiction.

24 Q. Did your stepdad Rafi have any other health issues?

25 A. He had a illness or a problem with his legs because of his

1 drug use.

2 Q. Okay. And what did his legs look like?

3 A. It was really ugly. You could see the skin or his
4 flesh.

5 Q. Okay. So he had like open wounds?

6 A. Yes, something like that.

7 Q. Mr. Figueroa, while you were selling on Burbank Street
8 were you also working as a confidential informant with the
9 police?

10 A. Yes.

11 Q. How did you become an informant with the police?

12 A. In 2015 when I was caught with a rifle.

13 Q. Okay. So you were caught with a rifle several years ago?

14 A. Yes.

15 Q. Yesterday I asked you about an attempted criminal
16 possession of a weapon in the second degree conviction. Were
17 you ultimately charged for possessing that rifle?

18 A. Yes.

19 Q. All right. Now, when you were charged with that gun
20 possession, did you come to the police to try and get a better
21 deal on your charges?

22 A. Yes.

23 Q. And because of your cooperation were you ultimately
24 sentenced to a term of probation?

25 A. Five years probation.

1 Q. Okay. Now, did you eventually -- well, what officers were
2 you working with when you were cooperating?

3 A. With Briganti and Swain.

4 Q. Okay. And those were RPD officers? Rochester Police
5 Department?

6 A. Yes, investigators.

7 Q. Now, after you finished your cooperation for your criminal
8 charges, did you eventually become a paid informant?

9 A. Yes.

10 Q. And what did that mean?

11 A. I give them information as to the places where drugs were
12 being sold and they would pay me.

13 Q. Okay. And were you still working with Investigator
14 Briganti and Investigator Swain when you were getting paid?

15 A. Yes.

16 Q. All right. Now, in addition to providing them information
17 did you do anything else?

18 A. Like what do you mean?

19 Q. Did you ever do any -- go buy drugs somewhere under their
20 direction?

21 A. Yes.

22 Q. And they would pay you in cash?

23 A. Yes.

24 Q. Would they also provide you with a cell phone?

25 A. Yes.

1 Q. And why would they give you a cell phone?

2 A. To be in communications with them and so that I could call
3 them whenever I had information.

4 Q. Okay. Now, did there come a time in August of 2015 that
5 you provided Investigator Briganti or Investigator Swain with
6 some information about Burbank Street and the drug sales that
7 were going on there?

8 A. Yes.

9 Q. All right. We're looking at Government's Exhibit 45 on the
10 visualizer here. In particular did you give them information
11 about the cocaine and heroin sales at this location 11
12 Burbank?

13 A. Yes.

14 Q. What information did you provide them about 11 Burbank?

15 A. That drugs were being sold there and who was doing the
16 selling.

17 Q. Okay. Was there one day in particular that you told them
18 drugs were being delivered to the location?

19 A. Yes.

20 Q. Okay. Tell us about that day.

21 A. So that day Green Eyes went around 1 o'clock or quarter to
22 1 and he went to get drugs -- I think it was on Leo Street or
23 Joseph Street. So he went to get drugs to bring to the house,
24 so I called or I texted Investigator Briganti to tell him that
25 they were gonna bring drugs.

1 Q. Okay. Now, how did you know that Green Eyes was going to
2 get drugs for the house?

3 A. Because that day we didn't have any drugs and he told us
4 I'm on my way, I'm gonna go get the packages.

5 Q. Did he tell you who he was going to meet to get the
6 packages?

7 A. There was a woman. Javier was annoyed with Pistolita at
8 the time, so there was a woman.

9 Q. How do you know that Javier was annoyed with Pistolita at
10 the time?

11 A. That day I asked my stepdad why Pistolita wasn't gonna
12 bring them and he said oh, I think Javier is annoyed with him.

13 Q. All right. Now, you told Investigator Briganti that Green
14 Eyes was going to get the drugs?

15 A. Yes.

16 Q. And what happened next?

17 A. When he came back I texted Briganti to tell him that we
18 were ready and then about 10 seconds later the police came in.

19 Q. Okay. So when who came back?

20 A. Green Eyes.

21 Q. And when Green Eyes came back what did he have with him?

22 A. The drugs.

23 Q. That cocaine and heroin?

24 A. Yes.

25 Q. And what happened next?

1 A. I was selling by the fence and then I saw the white van
2 come in so I went inside, I went up the staircase, Green Eyes
3 was coming down and then they checked all of us.

4 Q. All right. The fence that you were selling by, is that in
5 Government's Exhibit 45?

6 A. So there's a fence in between the house that was the watch
7 house and then the house next door where the 11 -- can I mark?

8 Q. Yes, if you could just make a circle in the general area.
9 Thank you.

10 A. Right there, that fence.

11 Q. So you've drawn a little squiggle line up the driveway of
12 11 Burbank and there appears to be a wooden fence there?

13 A. Yes.

14 Q. Now, the white van that pulled up, was that the police?

15 A. Yes.

16 Q. And so after they pulled up you ran into the house 11
17 Burbank?

18 A. Yes, I went in through the back door and I said the police
19 are there. So everyone started running like crazy.

20 Q. Who else was in 11 Burbank with you that day?

21 A. My stepdad Rafi; myself; Green Eyes; and Palito.

22 Q. Okay. And what happened next?

23 A. They checked us. I think they found two or three packages
24 of drugs. They took Green Eyes and they let us go.

25 Q. Okay. So Green Eyes was arrested that day?

1 A. Yes.

2 Q. I'd like to show you what's been received into evidence as
3 Government's Exhibit 118. Mr. Figueroa, do you recognize any
4 of the people in Government's Exhibit 118?

5 A. Yes, that's my stepdad Rafi.

6 Q. Okay. All right, now there's some wrappings around his
7 legs. Why does he have those on?

8 A. Like I said before, he had -- his legs were bad.

9 Q. All right.

10 A. So he would put some bandages, gauze and bandages.

11 Q. Now, does this photograph appear to be taken the day the
12 police searched 11 Burbank?

13 A. Yes.

14 Q. Okay. There's actually somebody with what appears to be a
15 police shirt on and police gear on the right side of the
16 photo?

17 A. Yes.

18 Q. All right. I'd like to show you Exhibit 115. Do you
19 recognize anyone in this photograph?

20 A. Palito.

21 Q. Where is Palito in this photo?

22 A. Sitting on the floor.

23 Q. Okay. Now, were you and Palito close?

24 A. Yes, we were almost always together. And that's my shirt.

25 Q. In this photograph Palito is wearing your shirt?

1 A. Yes, we were together that day.

2 Q. All right. Next I'd like to show you Exhibit 132. All
3 right. I know this isn't -- doesn't have the individual's full
4 face, but do you recognize who is in Exhibit 132?

5 A. Yes.

6 Q. Who was that?

7 A. Green Eyes.

8 Q. All right. Now, also in this photo there's a small piece
9 of paper with some writing on it. Do you recognize that?

10 A. Yes.

11 Q. Just generally what is that piece of paper?

12 A. So that's where he would write down the drugs that he had
13 with him. So 4L, that's leche, which is milk, so that's
14 cocaine. So underneath it says 4C, that's for coffee, that's
15 four packages of heroin.

16 Q. Okay. The 4C means what? Four packages of what?

17 A. That's coffee, so heroin.

18 Q. Okay. Thank you. Now, at the top of that piece of paper
19 it says Rey, R-E-Y. What does that mean?

20 A. That's his name.

21 Q. Whose name?

22 A. Green Eyes. Reynaldo.

23 Q. Okay. And typically who would keep notes like this?

24 A. He wrote this down. He wrote everything down. How much
25 drugs, who owed him what.

1 Q. Who would write everything down?

2 A. Green Eyes.

3 Q. Okay. And why would Green Eyes write things down like
4 that?

5 A. So he kept account of how much there was, how much had to
6 be delivered, if he gave two packages to a person he would
7 write it down to make sure how much he would have to give him
8 back.

9 Q. How much he would have to give who back?

10 A. Like the worker, how much they would have to give back to
11 Green Eyes.

12 Q. Okay. So this note here has Rey for Green Eyes and the
13 amount of cocaine and heroin that he has?

14 A. Yes.

15 Q. Now, if we could move on to Government's Exhibit 129. Do
16 you see a similar looking note in this photograph?

17 A. Yes.

18 Q. Is this also a note like Green Eyes would have kept?

19 A. Yes. This note means that he gave -- he delivered four
20 packages of cocaine and four packages of heroin. So with that
21 note he knows what Rafi has.

22 Q. Who knows what Rafi has?

23 A. Green Eyes.

24 Q. Okay. You see some -- looks like initials on here RF and
25 maybe --

1 A. I think Rafi put those, like --

2 **MR. VERRILLO:** Objection.

3 **THE WITNESS:** -- indicating Green Eyes delivered to
4 them.

5 **THE COURT:** Sustained. That will be stricken.

6 **BY MS. KOCHER:**

7 Q. Okay. Did you see Green Eyes make these notes?

8 A. Many times. Usually that's what he would do. So he keeps
9 account and control of how many drugs he's giving and how much
10 he has.

11 Q. Okay. And who was Green Eyes giving the drugs to?

12 A. So whoever he wanted to put to work. If it was me, he
13 would give me two packages and say okay, you owe me this much.

14 Q. Okay. So these notes are for -- to record what drugs Green
15 Eyes gave to the people working in the houses and what they
16 were selling?

17 A. Yes.

18 Q. Okay. When Green Eyes would create these notes would he
19 ever -- would he show them to the workers that he was giving
20 the drugs to?

21 A. Yes, so that they would know how much they owed. So you
22 would put your initials on the piece of paper and so that if
23 anything happened, you would know that you were responsible
24 for this amount.

25 So if he gave you four and one went missing, with

1 this note you would know -- he would know that he gave you
2 four and that it wasn't three.

3 Q. Okay. Did you yourself ever write your initials on notes
4 like this while you were working?

5 A. No.

6 Q. Okay.

7 A. At the time it was too obvious for me. If the police came
8 and saw the note and it had my name on it, then they would
9 know it was me.

10 Q. Okay. So you didn't like writing things down?

11 A. No.

12 Q. Okay. Would -- had you regularly -- had you seen Rafi,
13 your stepfather, sign notes like this from Green Eyes?

14 A. Usually, yes, because he's the one who had the most
15 problems, meaning that there was always money missing or he
16 would consume more drugs, stuff like that.

17 Q. Now, we have Exhibit 121 up on the visualizer. We're
18 going to zoom in -- so we've zoomed in on the bottom piece
19 of -- looks like cardboard.

20 Mr. Figueroa, do you recognize this blown up image
21 of the small piece of paper, cardboard?

22 A. Yes.

23 Q. Can you explain what some of the writing on this note
24 means?

25 A. We have the name Rey. Then it says four packages of

1 heroin, four packages of milk. Then you have the workers, the
2 ones who are going to be selling. And I think next to it it
3 says Paulo, P-A-L-O. Maybe this note indicates that's Palito
4 was gonna be working that day.

5 Q. Okay. So the 4C that means four coffee or four packages of
6 heroin?

7 A. Four coffee.

8 Q. Which means -- was your code for heroin?

9 A. Heroin.

10 Q. And then the 4L means four leche, which means milk or
11 cocaine?

12 A. Cocaine, milk is white, cocaine is white.

13 Q. Okay. And that's under the name Rey. So that means
14 that's what Rey had that day or at that time?

15 A. Yes.

16 Q. The next column over looks like it says -- excuse me, my
17 Spanish -- *trabajadore*, T-R-A-B-A-J-A-D-O-R-E.

18 A. *Trabajadore*, workers.

19 Q. That means workers?

20 A. Yes.

21 Q. And then the last column on the right looks like Palito?

22 A. I think it's Paulo. It's the same, we would call him
23 Paulo or Palito.

24 Q. Okay. But he was a worker in the house as well?

25 A. Yes. If the note is this way, that probably means it was

1 Palito's turn to work that day.

2 Q. Okay. Now, there's nothing under the word *trabajadore* or
3 Palito. What does that mean? There's no numbers listed?

4 A. That he doesn't have anyone working yet.

5 Q. Who doesn't have anyone working yet?

6 A. Rey.

7 Q. Or Green Eyes?

8 A. Yes.

9 Q. Okay. Was Green Eyes kind of in charge of the house when
10 you were selling at 11 Burbank?

11 A. Yes.

12 Q. So he would keep these notes to keep track of the workers
13 and the people selling in the houses?

14 A. To keep count.

15 Q. Okay. To keep count of what the workers in the house had?

16 A. To keep count of the drugs that he had and the drugs that
17 he gave.

18 Q. Okay.

19 A. So, for example, Rey -- you have Rey and then the amount
20 of drugs that he has. If I would be working under *trabajadore*
21 or workers, he would put my name and the amount of drugs that
22 he would give me.

23 Q. Okay. So from this note it looks like the workers were
24 never given any drugs because there's nothing listed under
25 their names?

1 A. Not yet, no.

2 Q. Okay. Now, was the defendant Pistolita ever a worker in
3 one of the houses 11 or 14 Burbank?

4 A. When they took Rey, Pistolita took charge. But they
5 wouldn't sell from that house anymore. He moved from 6
6 Burbank to 11.

7 Q. Okay. Now, you said when they took Rey. When who took
8 Rey?

9 A. When the police took Rey.

10 Q. Okay, that's Green Eyes?

11 A. Yes.

12 Q. And that was after 11 Burbank was searched this day he was
13 arrested?

14 A. Yes.

15 Q. Okay. So after Green Eyes or Rey was arrested, who came to
16 run the house?

17 A. So after that Pistolita moved to the house.

18 Q. Moved to 11 Burbank?

19 A. Yes, to 11 Burbank.

20 Q. Okay.

21 A. But they stopped selling at the house. They started
22 selling at the house next door.

23 Q. Okay. Which house next door?

24 A. The house that I mentioned before where the watchers would
25 be.

1 Q. Let's go to Government's Exhibit 45. Are you referring to
2 the white house on the left of this photo?

3 A. Can I touch the screen?

4 Q. Sure.

5 A. Here.

6 Q. You placed an X on the white house on the left of the
7 photograph?

8 A. Yes.

9 Q. Okay. All right. Now, back to this day where the police
10 searched 11 Burbank, at that time was the defendant a worker
11 or selling from the houses?

12 A. Not at the time. As I said before, my stepdad said that
13 Javier was upset or annoyed with Pistolita and he was not
14 working that time.

15 Q. Okay. Now, yesterday you mentioned when you first started
16 selling on Burbank Street in the brown house, 14 Burbank, the
17 defendant was with you?

18 A. Yes.

19 Q. Okay. Was that common for the defendant to be in one of
20 these houses with you selling drugs?

21 A. It was very rare.

22 Q. Okay.

23 A. He would usually just show up, bring the drugs and then
24 leave, but that day he spent the morning with me working.

25 Q. Okay. Why on that day in particular did he spend the

1 morning with you?

2 A. I don't know why. He came that morning and he said you're
3 gonna work with me.

4 Q. Okay. Had you just started working on Burbank Street at
5 that time?

6 A. I think that -- that was the first day that I worked
7 there. I would go there with my stepdad, but just hang out
8 with my stepdad and then I would leave. But that was the
9 first day.

10 Q. That was the first day you were actually selling drugs
11 from the brown house, 14 Burbank?

12 A. Yes.

13 Q. Okay. If we could go back to Exhibit 121. Mr. Figueroa,
14 would Green Eyes keep these notes for long?

15 A. Sometimes he would tear them up or just leave them there,
16 just throw them out.

17 Q. Okay. So he didn't have months long backlog of these
18 little notes laying around?

19 A. No, that would be too obvious.

20 Q. What would be too obvious?

21 A. So this would give away -- like right now, you know, he
22 kept these notes, the police took them and there's names in
23 there. So that's compromising information.

24 Q. Okay. If we could zoom in on the top piece of cardboard or
25 paper there? All right, now the first column here says El

1 Viejo, E-L V-I-E-J-O?

2 A. Yes, that's how they refer to my father.

3 Q. To Rafi?

4 A. Yes.

5 Q. Okay. And then it says 2 Y -- the letter Y, and 5. What
6 does that mean?

7 A. That's two packages of heroin and five of cocaine. And
8 they gave it to him at 8:30.

9 Q. So the 8:30 just below that is the time?

10 A. That's the time that they gave it to him, yes.

11 Q. Okay. All right, then the next column over, what is that
12 name?

13 A. Control. That's the nickname of one of the guys who
14 worked there.

15 Q. Okay. And then below the name Control it says 1, the
16 letter Y, and then I think 15. Are you able to make that out?

17 A. I can't really -- I can't really make out the numbers. I
18 know that they gave him something at 8, maybe 1 and 15 or 1
19 and 1. I can't make out the numbers.

20 Q. Okay. When you were describing the 2 Y 5 you said that was
21 two of heroin and five of cocaine?

22 A. Yes, usually that's how it was. First -- the first number
23 is the heroin and the next one is the cocaine.

24 Q. Would that be two bags of heroin or two bundles or two
25 packages?

1 A. I'm not sure what -- I'm not sure what he would have given
2 him that day. Could have been two packages and five little
3 packages or five bundles. I'm not sure.

4 Q. Okay. Then off to the right it says 8-11-2015. Does that
5 appear to be a date?

6 A. That's the date that Green Eyes gave those two people the
7 stuff.

8 Q. Okay. I'd like to show you what's been received in
9 evidence as Exhibit 130. Do you recognize -- there appears to
10 be a phone in the center of this photograph. Do you recognize
11 that phone?

12 A. That was a phone that usually was used to call, like that
13 type of phone.

14 Q. Okay. Who was that phone used to call?

15 A. That phone was used mainly to call either Pistolita or the
16 people watching across the street.

17 Q. That appears to be a flip phone?

18 A. Yes.

19 Q. Did you ever use a flip phone like that to call the
20 defendant?

21 A. Like two times.

22 Q. So is the defendant's phone number saved into the flip
23 phone that you used?

24 A. Yes, it had the letter P. And that's what my father
25 called him, P.

1 Q. Okay. Rafi would refer to the defendant as P?

2 A. Yes.

3 Q. I'd like to show you Exhibit 134 --

4 **THE COURT:** Let's take a break before we go on.

5 Ladies and gentlemen, at this time we'll take a
6 recess. In the meantime, I'd ask you not discuss the matter
7 or allow anybody to discuss the matter with you. Jury may
8 step down, we'll stand in recess.

9 (WHEREUPON, there was a pause in the proceeding.)

10 (WHEREUPON, the defendant is present; the jury is
11 present).

12 **MS. KOCHER:** Your Honor, may the interpreter
13 approach the witness stand?

14 **THE COURT:** Sure.

15 **MS. KOCHER:** Thank you.

16 **THE COURT:** You may proceed.

17 **MS. KOCHER:** Thank you.

18 **BY MS. KOCHER:**

19 Q. Mr. Figueroa, I'll remind you that you continue to be
20 under oath. And I'd like to direct your attention to
21 Government's Exhibit 127. Do you recognize what's in this
22 photograph?

23 A. Yes.

24 Q. What is it?

25 A. It's a little bag with the bags of drugs, heroin and

1 cocaine.

2 Q. Okay. So this is a bag that has cocaine and heroin in it?

3 A. Can I mark the one -- can I mark the screen?

4 Q. Sure. Actually, before you do that, I'll have

5 Ms. McCreedy blow up the packaging inside the bag. Do you

6 recognize now that we've zoomed in on what appear to be

7 sandwich bags inside that cloth bag?

8 A. Yes, that's where the bundles are.

9 Q. Okay. And bundles of what?

10 A. Heroin.

11 Q. Okay. And how do you know that's bundles of heroin?

12 A. Those are the bags that are used for heroin.

13 Q. Which bags?

14 A. Can I mark the screen?

15 Q. Yes.

16 A. This one right here.

17 Q. You've placed an X over the bag that has what appears to

18 be like a pirate skull picture?

19 A. Yes.

20 Q. Were those the drugs that you were selling at 11 Burbank
21 Street?

22 A. Yes.

23 Q. Ms. Rand, if you could please clear that? Thank you.

24 If we could unzoom the image? Do you also

25 recognize the blue and black bag that is holding the bags you

1 just marked as the heroin?

2 A. Yes.

3 Q. And how do you recognize that blue and black bag?

4 A. That's the bag that the sellers would use to sell. You
5 have the money upfront and the drugs in the back.

6 Q. Okay. Next I'd like to move on to Exhibit 128. Does
7 this appear to be a photograph of that same black and blue
8 bag?

9 A. Yes. As I said, the money goes in front and the drugs
10 goes in the back.

11 Q. Okay. And how would you wear this bag?

12 A. Around the waist.

13 Q. Like a fanny pack?

14 A. Yes.

15 Q. Okay. Next I'd like to show you Government's Exhibit 131.
16 If we could zoom in on the middle of that photograph.
17 Mr. Figueroa, do you recognize some of the bags that we've
18 zoomed in on from the middle of that photograph?

19 A. Yes.

20 Q. Where do you recognize those bags from?

21 A. From Burbank, that's the bag that we would sell from.

22 Q. Okay. And how do you recognize the bags that we've just
23 zoomed in on?

24 A. Because that's what we sold. Those black packages have
25 ten bags of heroin.

1 Q. Which black packages are you referring to? If you could
2 circle?

3 A. This one.

4 Q. You've placed an X on the black bag in the lower right?

5 A. Yes.

6 Q. Do you recognize any of the other bags?

7 A. Yes. The red and white are cocaine.

8 Q. Could you circle that? Okay.

9 A. This one.

10 Q. You've placed --

11 A. And this one.

12 Q. -- two X's on the left side of our zoomed in portion here
13 on the white bags with red marks on them?

14 A. Yes.

15 Q. And were those also drugs that you sold on Burbank Street?

16 A. Yes.

17 Q. And had you been selling the bags with those particular
18 markings before the police came and searched the location?

19 A. Yes.

20 Q. All right. You mentioned earlier that Green Eyes was
21 arrested that day?

22 A. Yes.

23 Q. Okay. What was the difference between Green Eyes' job and
24 the defendant's job?

25 A. It was pretty much the same, but as I said earlier, when I

1 asked why Pistolita was not bringing the drugs, my dad said
2 that it was because Javier was upset or annoyed with him.

3 Q. Okay. So Green Eyes took over the defendant's job that
4 day?

5 A. Yes.

6 Q. Typically what was Green Eyes' job?

7 A. If he wanted to, he could sell it and he could employ
8 people like myself, my dad, Palito.

9 Q. Okay. Who employed Green Eyes?

10 A. He would go to either -- like I said before, Leo Street
11 and Joseph Street.

12 Q. That's where he would get the drugs from?

13 A. Yes.

14 Q. Usually was Green Eyes just selling out of a house with
15 you?

16 A. Yes.

17 Q. And usually it was the defendant that would bring the
18 drugs to the house you were selling from?

19 **MR. VERRILLO:** Objection, leading.

20 **THE COURT:** Overruled. Go ahead, you can answer.

21 **THE WITNESS:** Can you repeat the question?

22 **BY MS. KOCHER:**

23 Q. Sure. Usually was it the defendant that would bring the
24 drugs to the houses that you, Green Eyes and others were
25 selling from?

1 A. So to the brown house he would bring it. When we started
2 working out of the white house, it wasn't him until the end.

3 Q. Okay. If we could go to Government's Exhibit 45. When you
4 say the white house, which house are you referring to?

5 A. 11 Burbank.

6 Q. That's the one in the middle?

7 A. Yes, the one that I just made a mark.

8 Q. Okay. And then you said it wasn't until the end that the
9 defendant would bring the drugs to that location. When was
10 that?

11 A. When the police took Green Eyes, Pistolita started to
12 bring the drugs, but he moved to the house, so we started
13 selling from the house next door.

14 Q. Okay. So after the police arrested Green Eyes the
15 defendant moved in to 11 Burbank?

16 A. Yes.

17 Q. Okay. And you would sell from the house next door in a
18 white house?

19 A. In the patio in the back. This house I just made a mark.

20 Q. And you made a mark on the house to the left, the white
21 house. All right, so after the house was searched you
22 continued to sell on Burbank Street?

23 A. Yes.

24 Q. For about how long?

25 A. For about two weeks after that.

1 Q. And when you were selling on Burbank you mentioned on a
2 good day you could make up to \$1,500 or \$2,000 during a shift?

3 A. On a good day, yes.

4 Q. Okay. Was that your money or did you have to share that
5 with the other people working in the house?

6 A. At the beginning it was all for you, but then when
7 Pistolita moved to this house and we were selling out of the
8 house next door, it was half and half.

9 Q. Okay. And who would you share your -- the half of the
10 profits with or your half of your earnings with I guess?

11 A. So whatever we make from the heroin, that was for me. And
12 the earnings from the cocaine, that was for Pistolita.

13 Q. Okay. And why did you start doing it that way?

14 A. I never questioned it. I said it was fine and that's how
15 we started working. At the time I wasn't thinking about
16 anything else other than using drugs, so I didn't care about
17 anything else.

18 Q. And who told you that you would get the money from the
19 heroin sales and the defendant would get the money from the
20 cocaine sales?

21 A. He told me. He said you're gonna work for me today, you
22 get the earnings from the heroin and you give me the earnings
23 from the cocaine.

24 Q. When you say "he," you mean the defendant?

25 A. Yes, Pistolita.

1 Q. So you continued selling from behind the white house for a
2 few more weeks after 11 Burbank was searched?

3 A. Yes.

4 Q. That would have been about in 2015 the house was searched
5 in August of that year?

6 A. Yes.

7 Q. Why did you stop selling drugs on Burbank Street?

8 A. The one time I was sleeping at the brown house and the
9 police came and they took me and two others. The police asked
10 me what I was doing there. I said I was sleeping there, I
11 didn't have anywhere else to live. I said that at the time I
12 was working for an investigator. So the officer told his
13 partner that I was a confidential for the police.

14 Pistolita heard when they said that and he told my
15 dad to tell me that he didn't want me anymore.

16 Q. Okay. And why didn't he want you anymore?

17 **MR. VERRILLO:** Objection.

18 **THE COURT:** Sustained.

19 **MR. VERRILLO:** Objection, speculation.

20 **THE COURT:** You don't have to answer that.

21 **BY MS. KOCHER:**

22 Q. Did Rafi tell you why the defendant didn't want you to
23 work anymore?

24 A. Yes.

25 Q. What did Rafi tell you?

1 A. That I shouldn't go to Burbank because Pistolita was gonna
2 come at me with a stick.

3 Q. Come at you with a stick or -- I didn't catch the end of
4 that.

5 A. That he was gonna hit me with a stick because I was
6 working with the police.

7 Q. So after Rafi told you that, what did you do?

8 A. I left.

9 Q. Where did you go?

10 A. From there I moved to Lang Street.

11 Q. That's L-A-N-G?

12 A. L-A-N-G, yes.

13 Q. All right. Now, after you left Burbank and stopped selling
14 there did you see the defendant again?

15 A. So about a week later I saw him at the corner store on
16 Lang Street. He was in a Chrysler 300, red color, and he came
17 to warn me. And he said oh, you think I can't do you right
18 here, right now.

19 Q. When he said that, what did you take that to mean?

20 A. That if I thought he wasn't willing to shoot me right
21 there.

22 Q. When the defendant said that to you, said you don't think
23 I would do you right here, did he do anything else when he
24 said that to you?

25 A. He went to warn me, he put his hand on his waist and said

1 you don't think I can do you right now.

2 Q. And when he put his hand on his waist what did you think?

3 A. That he had a gun. He's threatening me, he's telling me
4 you don't think I can shoot you right here. I wasn't so
5 afraid because there was a camera and I didn't think he would
6 be so stupid to do it in front of a camera.

7 Q. Okay. Did you actually see a gun?

8 A. I did not see it. I just saw putting his hand to his
9 waist.

10 Q. Now, you mentioned that there were cameras in the store?

11 A. Yes, at the corner there's a police camera. And the store
12 has cameras also. I wasn't scared.

13 Q. If you had been somewhere where there weren't cameras,
14 would you have been scared?

15 **MR. VERRILLO:** Objection.

16 **THE COURT:** Sustained.

17 **BY MS. KOCHER:**

18 Q. Now, you mentioned that he was in a red 300 Chrysler, the
19 defendant was in that car. Did you recognize that car?

20 A. Yes.

21 Q. How did you recognize that car?

22 A. The car belonged to a client who bought drugs, and he
23 would lend the car out in exchange of drugs. I even drove it
24 once.

25 Q. Okay. Where did that client buy drugs?

1 A. At Burbank at the brown house.

2 Q. Do you remember what that client looked like?

3 A. He was tall, wore glasses. I think they called him Ney or
4 something like that, N-E-Y.

5 Q. Okay. Was he white, black, Hispanic?

6 A. He was white.

7 Q. Mr. Figueroa, you mentioned your stepdad Rafi had
8 struggled with drug addiction and he also had the disease on
9 his legs. What drugs would Rafi use?

10 A. Heroin and cocaine.

11 Q. And when he would use the cocaine what happened to him?

12 A. He would hallucinate things.

13 Q. What do you mean hallucinate?

14 A. When he would get -- shoot up with cocaine, then he would
15 look at you and say don't move, what are you doing, did you
16 take this? Sometimes he couldn't remember where he would
17 store the drugs. He would say that someone had stolen from
18 him.

19 Q. So you say he hallucinated. Was he more paranoid about
20 things?

21 A. Yes.

22 Q. Is Rafi still alive?

23 A. No.

24 Q. All right. Do you know about when Rafi died?

25 A. So when I last saw him when I left Burbank, I saw him and

1 then I saw him again and I gave him three bags because he was
2 sick and he said he wasn't working. After that I didn't see
3 him again, and about a month later they told me that he had
4 died.

5 Q. Okay. So 11 Burbank was searched in August of 2015. About
6 how long after that was it that you found out Rafi passed?

7 A. So from that time that the guards came, I was there for
8 about two more weeks and then it was maybe a month after that,
9 so maybe six weeks.

10 Q. Okay. Now, I'd like to turn your attention back to
11 Government's Exhibit 1. You've identified the individual on
12 the bottom row in the red T-shirt as Palito?

13 A. Yes.

14 Q. Is he still alive?

15 A. I found out that he's not.

16 Q. Okay. Now, Mr. Figueroa, I'd like to show you what's not
17 been received into evidence as Government's Exhibit 193. Do
18 you recognize the individual in Government's Exhibit 193?

19 A. Yes.

20 Q. Who is that?

21 A. Palito.

22 Q. Okay.

23 **MS. KOCHER:** Can I just have a moment, Your Honor?
24 Thank you, Mr. Figueroa. I don't have anymore questions.

25

CROSS-EXAMINATION

BY MR. VERRILLO:

Q. Okay. Mr. Figueroa, did you enter into a cooperation agreement with the Government?

A. Yes.

Q. And when did you do that?

A. I think the paper has the date. I don't remember when.

Q. Okay. What I'm asking is when did you first begin cooperating with the Government? Do you know what year that was?

A. When I started cooperating?

Q. Yes.

A. 2015, January 21st, 2015.

Q. Okay. And what did you promise to do as a part of this cooperation?

A. To give valid and truthful information to the police.

Q. Did you agree that you would not commit any new crimes while you were cooperating?

A. I signed that agreement.

Q. Okay.

A. Is that what you're referring to?

Q. What I'm asking, sir, is when you agreed in 2015 to cooperate with the Government, did you understand as a part of that agreement you were not to commit any new crimes?

A. I don't remember what that paper said, but that would be a

1 decision that I would make. I made the agreement to
2 cooperate.

3 Q. Okay. But did you agree that you wouldn't commit any new
4 crimes while you were cooperating?

5 A. I don't remember having agreed to anything like that.

6 Q. Okay. So as far as you were concerned, it was okay that
7 you continued committing other crimes while you were
8 cooperating?

9 A. That would be up to me if I wanted to. I did not want to
10 do it.

11 Q. Okay. And did you agree as a part of the cooperation
12 agreement that you would not use drugs?

13 A. As I said, that would be up to me. That would be my
14 decision.

15 Q. Okay. So if you wanted to continue to use drugs while you
16 were cooperating with the Government, that was okay?

17 A. For me, if I wanted to do it, yes.

18 Q. Okay. Now, the agreement was with yourself and the
19 Government, correct?

20 A. Yes.

21 Q. And who did you deal with in the Government as it related
22 to this agreement?

23 A. With Officer Briganti and Officer Swain.

24 Q. Okay. As you were discussing this agreement did Officer
25 Briganti indicate to you that you were not to commit any new

1 crimes?

2 A. I don't remember him having told me something like that.

3 Q. Okay. And did Officer Briganti indicate to you that you
4 were not to use illegal drugs while you were cooperating?

5 A. As I said before, that was my decision. My work with him
6 was to give him information.

7 Q. Okay.

8 A. If I wanted to do something besides that, that's my own
9 problem.

10 Q. Okay. And you had been involved with these drug sales
11 since you testified about during what period of time?

12 A. Can you repeat again?

13 Q. Okay. You testified in your direct testimony about selling
14 drugs, correct?

15 A. Yes.

16 Q. And what time period were you selling drugs?

17 A. What are you referring to? Generally or at Burbank?

18 Q. Let's start at Burbank.

19 A. Around August of 2015, around there.

20 Q. Okay. All right. So you were selling drugs on your own
21 while you were also cooperating with the Government, correct?

22 **MS. KOCHER:** Objection.

23 **THE COURT:** Overruled. Go ahead. You can answer
24 that.

25 **THE WITNESS:** On my own you mean?

1 **BY MR. VERRILLO:**

2 Q. Yes.

3 A. I sold drugs before on my own, yes.

4 Q. Okay. But I'm talking about -- you said you were selling
5 drugs on Burbank in August of 2015, correct?

6 A. Yes, when I started selling drugs there I -- I notified
7 the officer and I would give him information.

8 Q. Okay. And were you selling drugs independent of the
9 Government at that time?

10 **MS. KOCHER:** Objection.

11 **THE COURT:** Sustained to the form of the question.

12 **BY MR. VERRILLO:**

13 Q. Okay. Is it your testimony that during the times that you
14 were selling drugs, that was approved by the Government?

15 A. Can you repeat that?

16 Q. Is it your testimony then that when you were selling drugs
17 on Burbank in August of 2015, that was with the permission of
18 the Government?

19 **MS. KOCHER:** Objection.

20 **THE COURT:** Overruled.

21 **THE WITNESS:** I would let them know all the time, I
22 would let them know.

23 **BY MR. VERRILLO:**

24 Q. Okay. You would let them know that you were selling drugs
25 on Burbank?

1 A. When I started, yes.

2 Q. Okay. And that was done with the Government's permission?

3 A. Yes. It was the only way that I could give them
4 information.

5 Q. And during that time were you also being compensated by
6 the Government for your cooperation?

7 A. Yes.

8 Q. And how much did you get paid by the Government for your
9 cooperation?

10 A. It depended on the information that I gave them. If it
11 was truthful, sometimes 80 for information or 100.

12 Q. Okay. And overall how much did you get paid for your
13 cooperation?

14 A. I can't tell you exactly, but it was more than \$1,000.

15 Q. Okay. Now, sir, you testified on direct that during this
16 cooperation with the Government that you had been -- strike
17 that.

18 You had testified on direct that you had been
19 convicted of attempted criminal possession of a weapon second
20 degree; is that right?

21 A. Yes.

22 Q. And did you have an assault rifle loaded with ammunition?

23 A. Yes.

24 Q. And were you placed on probation as a result of that plea?

25 A. Yes.

1 Q. And did you promise the judge that you would comply with
2 the terms of your probation?

3 A. Yes.

4 Q. Did you violate your probation in July of 2016?

5 A. Yes.

6 Q. Did you provide a fake address to your probation officer?

7 A. I did not provide a false address. When the agent went to
8 see me at the address, I had moved to a different address and
9 I had not provided that address yet.

10 Q. Okay. Was one of the terms of your probation not to use
11 illegal drugs?

12 A. Yes.

13 Q. Did you use illegal drugs during your probation?

14 A. I had never tested positive for drugs. I think I had
15 stopped using it for a little bit.

16 Q. Sir, my question was during the course of your probation,
17 did you use illegal drugs?

18 A. As I said, I never tested positive, so that is a no.

19 Q. So you didn't get caught, right?

20 **MS. KOCHER:** Objection.

21 **THE COURT:** Overruled. He can answer that.

22 **THE WITNESS:** Can you repeat that?

23 **BY MR. VERRILLO:**

24 Q. Your response is you didn't get caught by Probation using
25 drugs?

1 A. As I said, I never tested positive.

2 Q. What happened as a result of you violating your probation?

3 A. I don't remember exactly, but I think I might have spent
4 two or three weeks in jail and then I was back on probation.

5 Q. Okay. Did you get arrested on August 25th, 2016?

6 A. I think so.

7 Q. Okay. And do you recall giving the officer a fake name
8 identifying yourself as Luis Rodriguez?

9 A. Yes.

10 Q. So you lied to the police officer, right?

11 A. At the time I lied because there was a warrant, but
12 afterwards I gave them my true name.

13 Q. Okay. Were you placed on parole?

14 A. Yes, I was on parole.

15 Q. And how long were you on parole for?

16 A. A year and a half.

17 Q. And did you violate your parole?

18 A. Yes, I violated my parole.

19 Q. Okay. And what was the outcome of your parole violation?

20 A. They gave me ten months.

21 Q. Okay. During your period of cooperation, who was your
22 supervising agent?

23 A. Joe Briganti.

24 Q. Did you tell Investigator Briganti that you were using
25 drugs while you were cooperating?

1 A. No.

2 Q. Did you tell Investigator Briganti while you were
3 cooperating that you were committing other crimes?

4 **MS. KOCHER:** Objection.

5 **THE COURT:** You can answer that. I'm sorry, I
6 didn't see the objection. Overruled. You can answer that
7 question.

8 **THE WITNESS:** Can you repeat the question?

9 **BY MR. VERRILLO:**

10 Q. Did you tell Investigator Briganti while you were
11 cooperating that you were committing other crimes?

12 A. I don't remember exactly, but I remember I told him that I
13 was having addiction, that I wanted to clean up.

14 Q. Was your cooperation agreement with the Government ever
15 cancelled?

16 A. Yes.

17 Q. And when was that?

18 A. It was -- I don't remember the exact date. I think it was
19 around 2016, but you should know it. You have the papers with
20 you.

21 Q. Do you know why the cooperation agreement was cancelled?

22 A. I think because I went to Conkey to sell and I didn't
23 report that. It was for the same people.

24 Q. When did you go to Conkey to sell drugs?

25 A. It was in 2016, but I don't remember the exact date.

1 Q. Okay. As a part of your cooperation, have you testified in
2 court for the Government?

3 A. Yes.

4 Q. How many times have you testified for the Government?

5 A. This is the second.

6 Q. Okay. So you had testified in a prior trial?

7 A. Yes.

8 Q. Okay. And did you also testify in the grand jury?

9 A. Yes.

10 Q. And when you testified you understand -- you understood
11 that you were to tell the truth and the whole truth, correct?

12 A. Yes.

13 Q. And that was a promise that you made to the Court,
14 correct?

15 A. Yes.

16 Q. Now, when you testified yesterday you indicated that you
17 were introduced to Javi as a result of a meeting that you had
18 with your stepfather Rafi and Pistolita; is that right?

19 A. Yes.

20 Q. Okay.

21 **MR. VERRILLO:** Your Honor, at this time I want to
22 refer to Exhibit 516 which is not in evidence.

23 **BY MR. VERRILLO:**

24 Q. Sir, do you recall testifying at the grand jury in July of
25 2018?

1 A. Yes.

2 Q. And do you recall being asked questions about when you
3 were introduced to Javi?

4 A. What was that?

5 Q. Do you recall being asked questions about your
6 introduction to Javi at that time?

7 A. Yes.

8 Q. And did Ms. Kocher ask you some questions at the grand
9 jury?

10 A. Yes.

11 Q. Okay. Okay. Sir, I'm going to show -- I'm showing you
12 Exhibit 516 beginning with page 18, line 9. Do you recall
13 being asked the following questions and giving the following
14 answers?

15 Question: Did there come a time that you worked for
16 Javi?

17 Answer: Yes.

18 Question: About when did that occur?

19 Answer: Like the end of 2014 to the beginning of
20 2015, around that time.

21 Question: And how did you come to work for Javi?

22 Answer: Selling because he did a business with a
23 person that I used to work before.

24 Question: Okay. Who was that?

25 Answer: Loco.

1 Question: So who was it that asked you to go to
2 work for Javi?

3 Answer: Loco did a business with him and he was
4 going to pay rent to sell cocaine, so he sent me to work with
5 the cocaine there, but Javier gave me both, he gave me heroin
6 and cocaine.

7 Question: So Loco was renting from Javi to sell
8 drugs out of a house?

9 Answer: For a period of time.

10 Sir, were the answers to those questions true?

11 A. Yes.

12 **MS. KOCHER:** Objection, Your Honor. May we sidebar?

13 **THE COURT:** Sure.

14 (**WHEREUPON**, a discussion was held at side bar out
15 of the hearing of the jury.)

16 **MS. KOCHER:** Judge, I don't think any of that
17 testimony was inconsistent with how he testified yesterday.

18 **MR. VERRILLO:** He said that his introduction was as
19 a result of a meeting with my client and his stepfather and
20 that's not what this says.

21 **THE COURT:** That's what I recall.

22 **MS. KOCHER:** That may be how he ended up on Burbank,
23 but he was describing his first interaction yesterday which
24 involved the defendant and his stepfather.

25 **THE COURT:** Overrule the objection. I'll allow the

1 question.

2 (WHEREUPON, side bar discussion concluded.)

3 THE COURT: You may continue.

4 BY MR. VERRILLO:

5 Q. Sir, my question was were the answers to the questions
6 that I just read true?

7 A. Yes. Do you want me to explain?

8 Q. No. I just want you to answer the question. Are the
9 answers to the questions that I just read that you gave to the
10 grand jury, were they truthful?

11 A. Yes.

12 Q. Okay. So isn't it true that your first introduction to
13 Javi was a result of your contacts through Loco?

14 A. Do you want me to explain how it was that happened?

15 Q. Sir, I'm just asking a question. Could you please answer
16 the question.

17 A. I can explain it to you so you understand because I think
18 you're a little bit lost.

19 Q. Sir --

20 MR. VERRILLO: -- Your Honor, if we could just have
21 the answer, not make commentary?

22 THE COURT: Just answer the question. He asked you
23 a question. Answer it.

24 THE WITNESS: Can you repeat the question?

25 BY MR. VERRILLO:

1 Q. The question that I asked you, sir, was whether the
2 answers that you gave to the questions to the grand jury were
3 truthful?

4 A. Yes.

5 Q. Okay. So the person that introduced you to Javi was Loco,
6 correct?

7 A. The person who introduced me to Javi was Pistolita. I
8 think I said that before.

9 Q. Okay. But that's not what you said to the grand jury,
10 right?

11 A. Can you repeat that I -- can I finish?

12 **THE COURT:** Hang on. Repeat your question.

13 **BY MR. VERRILLO:**

14 Q. Okay. Was Loco renting a house on Burbank?

15 A. No.

16 Q. Okay. But you testified at the grand jury that he was
17 renting a house on Burbank, correct?

18 A. I never said -- and you can read it, I never said that he
19 rented a house. If you can show me where it says that I said
20 that he was renting a house?

21 Q. Did you testify to the grand jury that Loco did a business
22 with him and he was going to pay rent to sell cocaine?

23 A. Yeah, if you can -- I see it. If you can go up a little
24 bit?

25 Q. Do you want me to go up? I'm sorry. Okay, sure.

1 A. Line 23 -- the answer on line 25 I don't think that's the
2 way that I wanted to answer. When I said a period of time,
3 that was at the moment we were selling drugs there.

4 Q. Okay. Sir, as a term of your cooperation did the
5 Government agree not to charge you with any federal crimes?

6 A. Yes.

7 Q. So all of the instances that you've talked about in this
8 trial related to what happened on Burbank, you're not being
9 charged with, correct?

10 A. No.

11 Q. On direct, sir, you indicated that you came to Rochester
12 in 2005. Do you recall that?

13 A. Yes.

14 Q. And you sold drugs on Burbank during what period of time?

15 A. 2015, beginning maybe of 2015. I don't remember exactly.
16 It's been a while.

17 Q. Okay. And did you sell drugs on Conkey?

18 A. No, I was there but two days and then I left.

19 Q. Did you sell drugs on Geneva Street?

20 A. Yes.

21 Q. And what time period did you do that?

22 A. I think it was the end of 2016 into 2017.

23 Q. Okay. And how long did you sell drugs on Geneva Street?

24 A. Almost a year.

25 Q. And when you were on Geneva Street you were selling drugs

1 and getting money from the sales for yourself?

2 A. Yes.

3 Q. And that was while you were cooperating with the
4 Government, correct?

5 A. Yes, when I moved to Geneva Street I let the officer know.

6 Q. So you let the officer know that you were cooperating with
7 the Government and you were selling drugs on Geneva Street?

8 A. Yes, I was working there and I was giving information to
9 the officer when we were working the tables, where we stored
10 the drugs, all that.

11 Q. Now, as a part of your cooperation you were involved in
12 some controlled buys, correct?

13 A. Yes.

14 Q. And that would be where the Government would give you
15 certain amount of money in order to purchase some drugs,
16 correct?

17 A. On certain occasions that happened.

18 Q. Okay. But when you're talking about selling drugs on
19 Geneva Street, those were the -- no controlled buys, were
20 they?

21 A. No. As I said, I was a user.

22 Q. You were a user and a seller?

23 A. Yes.

24 Q. Okay.

25 A. I've always said that, yes.

1 Q. And when you were on Geneva Street were you getting drugs
2 from Danny?

3 A. Yes.

4 Q. And when you were on Geneva Street did you assist in
5 packaging drugs?

6 A. Yes.

7 Q. And how were you paid for packaging?

8 A. They paid us in cash, sometimes in drugs, sometimes both.

9 Q. Now, you were asked questions on direct as to how much
10 money you would make in an eight-hour shift. Do you recall
11 those questions?

12 A. Yes.

13 Q. And I believe your testimony was you made a dollar per
14 bag?

15 A. Yes.

16 Q. Okay. And what would you do with the money that you earned
17 from selling drugs?

18 A. Part of it I used it in drugs, another part I would take
19 home with me, I have a family, I have children. I didn't
20 consume all of it in drugs.

21 Q. Okay. And would it be fair to say you didn't pay any taxes
22 on that money, correct?

23 A. No.

24 Q. So whatever you received you had control over, the money
25 that you received?

1 A. Yes.

2 Q. And on a particular shift I believe your testimony was you
3 would sell up to what? \$1,500? You would get about \$1,500
4 out of it?

5 A. Yes, depending on whether it was a good day or a bad day.

6 Q. Okay. So if you sold 1,500 bags of heroin let's say as an
7 example, how many purchasers would you have for that?

8 A. I don't -- I don't keep count of that. I just wanted to
9 sell and have some money. That was all.

10 Q. Okay. And I'm just asking on average, how many bags would
11 an individual buy or buy from you when you would sell 1,500
12 bags of heroin?

13 A. It varied. Maybe one person would come in and get two
14 bundles, maybe another person would come in and get one
15 baggie, maybe someone comes in and gets five baggies. It
16 depended.

17 Q. Okay. Now, a bundle would be ten bags; is that right?

18 A. Yes.

19 Q. And a package would have ten bundles?

20 A. What do you mean a package?

21 Q. If you had -- if you had a package of drugs, how many
22 bundles would be in there?

23 A. You mean the black baggies? Each black bag contained ten
24 little baggies. That's a bundle.

25 Q. Okay. All right.

1 A. A package would come either in 10 or 20.

2 Q. When you would perform shifts? You said you would do
3 eight-hour shift. How many shifts would you do during a week?

4 A. I don't really -- didn't have control of that, but I would
5 work almost every day. Like sometimes your client would tell
6 me come in the morning and then he would tell me to come at
7 night. It depends.

8 Q. So some days you would do two shifts in a day?

9 A. Yes, some days I would work from say 7 to 3; and then my
10 dad would work from 3 to 11, sometimes I stayed to help him.
11 Sometimes Pistolita would ask me to work two shifts in a row,
12 like do one shift for you and one shift for me.

13 Q. So if you were doing seven shifts let's say during a week
14 and you were making 1,500 per shift, that would be over
15 \$10,000 for one week, right?

16 A. I never -- never kept count of that. I never kept count.
17 I would sometimes use it in drugs, sometimes I would bring
18 money to the family and my kids, sometimes I would buy
19 clothing.

20 Q. Okay. Now, during your direct testimony did you indicate
21 that you were homeless at one point?

22 A. Yes, there was a time where I was so consumed by drugs
23 that I would stay out on the street and would never go home.

24 Q. Sir, how tall are you?

25 A. I don't know, five six, five seven.

1 Q. How much do you weigh?

2 A. Last time I was weighed I weighed 162 a week ago.

3 Q. Okay. And how about Mr. Torres? Do you know how tall he
4 is?

5 A. No, I'm not a doctor to know that.

6 Q. Okay. You would agree he's shorter than you, correct?

7 A. I think so. Not by much.

8 Q. Okay. Do you recall testifying about what would happen if
9 the money count was short when the money was brought back to
10 Javi? Do you recall those questions?

11 A. Like what would happen?

12 Q. Yes.

13 A. Yes, I remember.

14 Q. And you testified to an occasion where Rafi was hit in the
15 ribs by Pistolita when the money was short. Do you remember
16 that?

17 A. Yes, one time my dad was short with the money and at the
18 time he was staying with me at my house. When I went to pick
19 him up in the afternoon he said that he was short with the
20 money that he gave and Pistolita told Javi and Javi had hit
21 him in the ribs.

22 Q. Okay.

23 A. And if I remember correctly, Javier went to my house with
24 Pistolita. My dad was living with a girl that was his partner
25 and they were living in my house. And that day my dad was

1 afraid. He went to a park on Portland. And Javier came with
2 Pistolita, they took Jessica and they disrespected me in my
3 house.

4 Q. Okay. Do you recall testifying to the grand jury about
5 what would happen if someone messed up with the money count?

6 A. Yes.

7 Q. Okay. Referring back to Exhibit 516, I'm referring to page
8 30, line 7. Do you recall giving the -- having the following
9 questions and giving the following answers?

10 Question: Mr. Figueroa, what would happen if
11 someone messed up the money count at any of these houses where
12 you are working for Javi?

13 Answer: It was a big problem.

14 Question: And what do you mean by that?

15 Answer: Anything could happen, like an example,
16 Rafi that he was the one that mostly had that problem, they
17 used to hit him with a stick. One time they broke his ribs.

18 Question: Did Rafi tell you about that or did you
19 see that happen?

20 Answer: Rafi told me and I saw him one time.

21 Question: And who was it that beat him up with the
22 stick?

23 Answer: Javi.

24 Question: Javi did it himself or ordered others to
25 do it?

1 Answer: Javi would work with Robert or with Yankee.

2 Do you recall those questions and those answers?

3 A. Yes.

4 Q. And were your answers truthful?

5 A. Yes.

6 Q. And when you testified to the grand jury you didn't
7 mention Pistolita as hitting Rafi, did you?

8 **MS. KOCHER:** Objection, Your Honor.

9 **THE COURT:** Overruled. Go ahead, you can answer
10 that.

11 **THE WITNESS:** I never said that Pistolita hit Rafi.
12 That happened at the brown house. Pistolita hit Palito. Do
13 you want me to explain what happened?

14 **BY MR. VERRILLO:**

15 Q. Let me ask you this question: Rafi is your stepfather,
16 correct? Was your stepfather?

17 A. Yes.

18 Q. And your testimony is that you had seen an occasion where
19 Rafi was hit by another person, correct?

20 A. That I saw?

21 Q. Yeah.

22 A. I don't remember that question.

23 Q. Didn't you testify in the grand jury that you had saw Rafi
24 get hit one time?

25 **MS. KOCHER:** Objection, Your Honor. Can we please

1 sidebar?

2 **THE COURT:** No. Overruled. You can answer the
3 question.

4 **MS. KOCHER:** Your Honor, that's not what's in the
5 grand jury testimony.

6 **MR. VERRILLO:** I can read it again. I'll read it
7 again the question and answer.

8 **THE COURT:** Go ahead.

9 **BY MR. VERRILLO:**

10 Q. Sir, do you recall being asked the question -- this is on
11 page 30, line 15.

12 Did Rafi tell you about that or did you see that
13 happen?

14 Answer: Rafi told me and I saw him one time.

15 Do you recall that question and giving that answer?

16 A. Yes, I remember.

17 Q. Okay.

18 **THE JUROR:** Can we take a quick recess, please?

19 **THE COURT:** Sure. Ladies and gentlemen, at this
20 time we'll take a recess. In the meantime, I'd ask you not
21 discuss the matter or allow anybody to discuss the matter with
22 you. Jury may step down. We'll stand in recess.

23 (**WHEREUPON**, there was a pause in the proceeding).

24 (**WHEREUPON**, the defendant is present; the jury is
25 present).

1 **THE COURT:** You may continue, Mr. Verrillo.

2 **MR. VERRILLO:** Thank you, Judge.

3 **BY MR. VERRILLO:**

4 Q. Mr. Figueroa, were any of the packages of heroin that you
5 received, did any have blue magic on them?

6 A. Can you repeat the question?

7 Q. Was any of the heroin that you received packaged in
8 baggies that had blue magic on them?

9 A. No.

10 Q. Okay. Sir, you talk about an incident where you saw
11 Pistolita at a store. Do you recall that?

12 A. Yes.

13 Q. And do you know what store that was?

14 A. Corner store Lang Street and Clinton.

15 Q. And do you know the name of the store?

16 A. No, but it's on the corner.

17 Q. Okay. And when did this incident occur?

18 A. Like two weeks after I left Burbank.

19 Q. Okay. Approximately when would that be?

20 A. I don't know the exact date.

21 Q. Do you know what year it was in?

22 A. It was -- it was quickly, like two weeks after I left
23 Burbank, around '15.

24 Q. I'm sorry, sometime in 2015?

25 A. Yes, when I left Burbank.

1 Q. And you were cooperating with the Government at that time?

2 A. I don't remember. It was already -- it was after the
3 arrest at the house No. 11. So I think I had just finished at
4 that time.

5 Q. Did you report that incident to the police?

6 A. No.

7 Q. Did you get a copy of the camera that you said was in the
8 store? Did you get a copy of the video?

9 A. No, no.

10 Q. Okay. Sir, how much time do you have left before you'll be
11 released from custody?

12 A. Why do you want to know that? Do I need to answer that?

13 **THE COURT:** Yes. You need to answer the question.

14 **THE WITNESS:** I don't know.

15 **BY MR. VERRILLO:**

16 Q. Okay. What was the amount of time you received -- let me
17 ask you this question: Are you in custody now because of a
18 parole violation?

19 A. Yes.

20 Q. And how much time did you get on the parole violation?

21 A. Ten months.

22 Q. Okay. And how long have you been in under that sentence?

23 A. A few months.

24 Q. Okay. So it's your hope that you'll be out of jail by next
25 year?

1 A. I don't know. I'm not keeping count.

2 Q. Hmmm. Now, sir, in this trial that you've testified in
3 how many times have you met with the Government concerning
4 your testimony?

5 A. With who? Can you repeat that?

6 Q. With respect to the trial that we're here for Mr. Torres,
7 how many times have you met with the Government regarding this
8 trial?

9 A. Like six or seven times.

10 Q. Okay. And who have you met with during those six or seven
11 times?

12 A. With Ms. Cassie Koller, something like that.

13 Q. Okay. Anyone else?

14 A. And two agents -- agents, investigators.

15 Q. Okay. Which agents were they?

16 A. Briganti and Pat -- Pat -- Patrick.

17 Q. Okay. When was the last time you've met with the
18 Government prior to testifying today?

19 A. Yesterday we talked about the interpreter and that stuff.

20 Q. Okay. That was after court yesterday?

21 A. Yes.

22 **MR. VERRILLO:** Your Honor, if you could just have a
23 moment?

24 **THE COURT:** Sure.

25 **MR. VERRILLO:** I have no further questions.

1 **MS. KOCHER:** May I, Your Honor?

2 **THE COURT:** Yes.

3 **MS. KOCHER:** Thank you.

4 **REDIRECT EXAMINATION**

5 **BY MS. KOCHER:**

6 Q. Now, Mr. Figueroa, you worked with Investigator Briganti
7 for several years?

8 A. From 2015.

9 Q. Okay. While you were working with him were you struggling
10 with drug addiction?

11 A. Yes.

12 Q. And you were also selling drugs?

13 A. Yes.

14 Q. Now, did you know what could happen if you got caught
15 using or selling drugs? What would happen to your cooperation
16 agreement?

17 A. It would be ruptured, annulled.

18 Q. It would be ruptured?

19 A. The agreement would be cancelled if I got a case.

20 Q. If you got a case you could go to jail?

21 A. Yes.

22 Q. When you say getting a case, that means getting arrested?

23 A. In August or July they caught me with a bag of cocaine and
24 I went to jail for that.

25 Q. Okay. And there did come a point your agreement to

1 cooperate or work with Investigator Briganti was cancelled; is
2 that right?

3 A. Yes.

4 Q. And why was it cancelled?

5 A. Because I was selling cocaine for three days and I didn't
6 let him know.

7 Q. Okay. And when you -- when the police found out you were
8 selling, what happened to you?

9 A. I think the agreement was cancelled. I don't know. There
10 was an arrest warrant from Probation.

11 Q. Okay. But once the police found out you were selling
12 drugs, you got arrested and your agreement with the police was
13 cancelled?

14 A. Yes.

15 Q. Was your agreement to work with the police ever cancelled
16 because you lied to them?

17 A. Because I didn't notify them that I was at that location
18 selling.

19 Q. But you were also caught selling drugs and you were
20 arrested?

21 A. No, not selling drugs.

22 Q. What were you caught with?

23 A. With the baggie that I had in my possession for my
24 personal use.

25 Q. Okay. All right. Now, Mr. Verrillo asked you about

1 selling on Burbank and he said you were selling drugs on your
2 own there; is that accurate?

3 A. What do you mean when you say on your own?

4 Q. When you were selling on Burbank Street who were you
5 selling for?

6 A. I sold drugs for Pistolita. Not because anybody forced
7 me, but because I wanted to.

8 Q. You were able to sell -- let me rephrase that.

9 Did you ever sell on Burbank Street on your own?

10 A. One time I sold two or three bundles.

11 Q. Okay. And what do you mean by that?

12 A. Loco had given me three bundles and I sold them there.

13 Q. Loco gave you bundles and you sold them on Burbank Street?

14 A. Yes, it was just like three bundles that he gave me.

15 Q. Did the defendant know you were doing that?

16 A. No.

17 Q. Why not?

18 A. I couldn't tell him because he could kick me out or I
19 could get -- I can get in trouble.

20 Q. What kind of trouble would you get in for selling drugs
21 that he did not supply you?

22 A. I don't know how he would react, but knowing he's a
23 violent person he would do something to me, hit me or
24 something.

25 Q. And why would he hit you for selling drugs that he did not

1 supply you?

2 A. Because I'm not making money for him, I'm making money for
3 somebody else.

4 Q. Okay. All right, so when you were selling drugs you
5 testified you were making quite a bit of money during a shift?

6 A. Yes.

7 Q. If you were making that much money, how were there times
8 when you were homeless?

9 A. Because there was times where I would just use all of it,
10 although I have to admit there was a time that he helped me
11 pay rent because I would just use all of it.

12 Q. Who helped you pay rent?

13 A. One time Pistolita helped me pay rent so that I wouldn't
14 lose my family. But I was so consumed by drugs that I decided
15 to go to the streets. I was losing my family slowly, my
16 children were getting away from me.

17 Q. Okay. While you were selling did you have a checking or
18 savings account that you would keep the money in?

19 A. No.

20 Q. Did you own a house or any other asset?

21 **MR. VERRILLO:** Objection.

22 **THE COURT:** Overruled. You can answer that.

23 **THE WITNESS:** No.

24 **BY MS. KOCHER:**

25 Q. And when you were using was that because -- what would

1 happen if you didn't use? How would you feel?

2 A. I would get sick, I would feel bad. I would get chills
3 and nausea.

4 Q. So you were using on a daily basis. Was it so that you
5 would avoid being sick and nauseous and having chills?

6 A. Yes, to avoid that and also because I liked it.

7 Q. Okay. All right, now Mr. Verrillo asked you about some of
8 your prior testimony before the grand jury. He asked you
9 about how you first came to start selling on Burbank Street
10 and you mentioned somebody named Loco.

11 Do you remember when he was asking you about that?

12 A. Yes.

13 Q. I believe you asked him if you could explain and he said
14 no.

15 A. Yes.

16 Q. Could you please explain how you came to start selling at
17 Burbank Street and how Loco was involved in that?

18 A. When my father introduced me, I introduced him to
19 Pistolita.

20 Q. You introduced who to Pistolita?

21 A. Loco.

22 Q. Okay. And who was Loco?

23 A. He's a person I worked for selling drugs in 2014.

24 Q. Okay. So you worked for Loco selling drugs before you went
25 to Burbank Street?

1 A. Yes.

2 Q. And why did you introduce Loco to the defendant?

3 A. He was looking for someone who had good drugs. My father
4 was there, I told him on Burbank there's good drugs, I can
5 introduce you to make a good deal.

6 Q. So who was it that was looking for good drugs?

7 A. Loco.

8 Q. And your father Rafi had been working on Burbank Street
9 and using their drugs?

10 A. Yes.

11 Q. So was that how you were familiar with the quality of
12 drugs on Burbank Street?

13 A. Yes.

14 Q. And is that why you introduced Loco to Pistolita?

15 A. I spoke to my dad first and then they were introduced.

16 Q. All right. Now Mr. Verrillo also asked you about some of
17 your prior testimony in grand jury where you talked about Rafi
18 getting injured or beat up.

19 A. Yes, he asked me, but he didn't allow me to explain.

20 Q. Okay. Could you please explain?

21 A. That day I went to the brown house on Burbank and my
22 stepdad was upstairs. It was -- there were -- Javier was
23 there and Robert and maybe Yankee.

24 My dad had had a problem with Bebo, he was one of
25 the workers. When I got there to the brown house on Burbank,

1 Bebo told me leave because they're fixing an issue with your
2 dad.

3 I got close to the door and I heard my dad making
4 noises. That's when they told me that I should leave, they
5 said leave. And afterwards my dad told me that they were
6 beating him with a stick and -- and after that that's when I
7 decided to take him home with me. I thought that he was being
8 abused.

9 Q. Where was Rafi living at the time?

10 A. He was staying at the brown house. After -- I took him
11 home afterwards because they didn't let his partner stay with
12 him. So he had lied -- he lied to Pistolita and told him that
13 she had left to Pennsylvania, but she was at my house with my
14 dad.

15 Q. Okay. When you say your father's partner, is that his
16 girlfriend or significant other?

17 A. His girlfriend at the time.

18 Q. Okay. On that day at 14 Burbank, the brown house, did you
19 actually go inside?

20 A. I got to the second door. The house had two doors. I got
21 to the second door.

22 Q. That's when they told you to leave?

23 A. In the kitchen. He said leave -- leave because they're
24 giving it to your dad, so leave. So that hurt me a lot and so
25 that's when I decided to take him home with me.

1 Q. Okay. And did you see him later that day with some of the
2 injuries you described? I can't remember if it was yesterday
3 or today.

4 A. Late at night he called me and he said boy -- he called me
5 boy, he said boy, come get me. I went to get him and I asked
6 him are you okay. He said no, because of Bebo they hit me,
7 but I didn't want to ask him questions, I didn't want to hurt
8 my brain.

9 Q. Mr. Verrillo also asked you about how many times you had
10 met with the Government, meaning me and the agents. During
11 our meetings did I or either of the agents ever tell you what
12 another witness had testified about or what another witness
13 had said about the case?

14 **MR. VERRILLO:** Objection.

15 **THE COURT:** Overruled. You can answer that.

16 **THE WITNESS:** No.

17 **BY MS. KOCHER:**

18 Q. Did I ever show you testimony from other witnesses in this
19 case?

20 A. No.

21 Q. Did I ever tell you what to say during your testimony
22 today or yesterday?

23 **MR. VERRILLO:** Objection.

24 **THE COURT:** Overruled. You can answer that.

25 **THE WITNESS:** No.

1 **BY MS. KOCHER:**

2 Q. What was the one thing during our meetings that I asked of
3 you?

4 A. To say the truth and nothing but the truth.

5 Q. I'd like to show what's not in evidence at this time as
6 Government's Exhibit 344. Mr. Figueroa, is this the
7 cooperation agreement that you signed before testifying at
8 trial here?

9 A. Yes, that's how it started.

10 **MS. KOCHER:** Your Honor, based upon defense
11 questions I'd ask to admit Government's Exhibit 344.

12 **THE COURT:** Any objection?

13 **MR. VERRILLO:** Your Honor, if I could just have a
14 moment? I want to -- what number is that, 344?

15 **THE COURT:** 344.

16 **MR. VERRILLO:** I have no objection, Your Honor.

17 **THE COURT:** Exhibit 344 will be received.

18 (**WHEREUPON**, Government Exhibit 344 was received
19 into evidence).

20 **BY MS. KOCHER:**

21 Q. Now, Mr. Figueroa, what's your understanding of what's
22 contained in this cooperation agreement?

23 A. What I could read with my attorney and with the help of
24 the interpreter, there will be no charges against me if I told
25 the truth.

1 Q. Okay. And the no charges against you, is that potential
2 charges based upon your involvement in the drug sales on
3 Burbank Street?

4 A. Yes.

5 Q. And what is required of you to get that immunity or avoid
6 being charged with your involvement in sales of cocaine and
7 heroin on Burbank Street?

8 A. That I say the truth.

9 Q. Now, you're currently in custody for a parole violation?

10 A. Yes.

11 Q. Were there any promises made to you regarding your parole
12 violation in this cooperation agreement?

13 A. No.

14 Q. And after your testimony today, will you be returned to
15 state custody and state prison?

16 A. Yes.

17 Q. Now, what will happen to you if you do not provide
18 truthful testimony based upon this cooperation agreement?

19 **MR. VERRILLO:** Objection.

20 **THE COURT:** Sustained to the form of the question.

21 **BY MS. KOCHER:**

22 Q. Mr. Figueroa, based upon your understanding of the
23 cooperation agreement, what could happen to you if you provide
24 untruthful testimony?

25 A. I could be charged with lying to the Court.

1 Q. Okay. Could you be charged with anything else?

2 A. For perjury and things like that.

3 Q. In addition to perjury, could you also be charged with
4 drug crimes based upon what you've testified or based upon
5 your involvement in the drug sales on Burbank?

6 A. Yes.

7 Q. Now, have you been truthful in court yesterday and today
8 and to this jury?

9 **MR. VERRILLO:** Objection.

10 **THE COURT:** Sustained.

11 **BY MS. KOCHER:**

12 Q. Mr. Figueroa, have you provided truthful testimony during
13 this trial?

14 **MR. VERRILLO:** Objection.

15 **THE COURT:** Sustained.

16 **BY MS. KOCHER:**

17 Q. Mr. Figueroa, have you lied during your testimony?

18 A. No, I've said the truth.

19 **MS. KOCHER:** Thank you, Mr. Figueroa.

20 **RE CROSS-EXAMINATION**

21 **BY MR. VERRILLO:**

22 Q. Mr. Figueroa, when was the last time you sold drugs?

23 **MS. KOCHER:** Objection, beyond the scope.

24 **THE COURT:** Overruled. Go ahead.

25 **THE WITNESS:** When's the last time I sold drugs?

1 **BY MR. VERRILLO:**

2 Q. Right.

3 A. Around 2017.

4 Q. Okay. And in 2017 there were times you were selling drugs
5 without the permission of the Government, correct?

6 **MS. KOCHER:** Objection.

7 **THE COURT:** Overruled. You can answer that.

8 **THE WITNESS:** Without permission from the
9 Government?

10 **BY MR. VERRILLO:**

11 Q. Yes.

12 A. Yes.

13 Q. Okay. And you haven't been charged with any crimes related
14 to that, right?

15 A. No.

16 Q. And this agreement, which is Exhibit 344, do you know when
17 you signed this agreement?

18 A. I don't know. I think eight, nine, you know, you would
19 know --

20 Q. I'm just asking you if you recall.

21 A. I think it was the 8th or the 9th. You should know. If I
22 could see the paper.

23 Q. Yeah, okay. Well, I don't have -- if we could see the
24 last page of this exhibit? . Okay, sir, can you see that?

25 A. Yes, on the 8th. And that's the interpreter's signature.

1 Q. Okay. But does that refresh your memory when you signed
2 the agreement?

3 A. Yes, that same day. See, I wasn't lying.

4 Q. Okay.

5 **MR. VERRILLO:** I have nothing further. Thank you.

6 **THE COURT:** Anything further?

7 **MS. KOCHER:** No, thank you.

8 **THE COURT:** Thank you, you may step down.

9 (WHEREUPON, the witness was excused).

10 **THE COURT:** Sidebar for a second.

11 (WHEREUPON, a discussion was held at side bar out
12 of the hearing of the jury.)

13 **THE COURT:** You have another witness ready?

14 **MS. KOCHER:** We do, Judge, he's in custody.

15 **THE COURT:** Just going to start him maybe?

16 **MR. MARANGOLA:** Okay.

17 **THE COURT:** At this time we'll take a short recess.
18 In the meantime, do not discuss the matter or allow anybody to
19 discuss the matter with you. Step down for a very short
20 recess.

21 (WHEREUPON, there was a pause in the proceeding).

22 (WHEREUPON, the defendant is present).

23 **THE COURT:** We'll only go until about 2 o'clock
24 today just to make up a little bit; and based upon the fact
25 the next two days we have short days, I think two hours

1 tomorrow and three hours Thursday, nothing on Friday.

2 **MR. MARANGOLA:** Sounds good, Judge.

3 (**WHEREUPON**, the jury is present).

4 **THE COURT:** Ladies and gentlemen, just so you know,
5 we're not going to go long today, just until about 2 o'clock;
6 just trying to get in more testimony based upon the fact we
7 have two short days coming up and no session on Friday.

8 You may call your next witness.

9 **MR. MARANGOLA:** Thank you, Your Honor. The
10 Government calls Axel Aponte Camacho.

11 **GOVERNMENT'S WITNESS, AXEL APONTE CAMACHO, SWORN**

12 **DIRECT EXAMINATION**

13 **THE CLERK:** Please state your full name for the
14 record and spell your last name.

15 **THE WITNESS:** Axel Aponte Camacho, A-X-E-L,
16 A-P-O-N-T-E, C-A-M-A-C-H-O.

17 **THE CLERK:** Thank you. You can have a seat.

18 **THE COURT:** You may proceed, Mr. Marangola.

19 **MR. MARANGOLA:** Thank you, Your Honor.

20 **BY MR. MARANGOLA:**

21 Q. Good afternoon. Would you please introduce yourself to
22 the jury?

23 A. My name is Axel Aponte Camacho. I'm 26 years old.

24 Q. Mr. Aponte Camacho, do you speak English?

25 A. Not very well.

1 Q. You speak a little bit?

2 A. Yeah.

3 Q. You speak Spanish, correct?

4 A. Yes.

5 Q. Is that your primary language?

6 A. Yes.

7 Q. The interpreter is translating my questions into Spanish
8 for you; is that right?

9 A. Yes.

10 Q. Do you understand the interpreter?

11 A. Yes.

12 Q. If you don't understand any questions by me or the other
13 lawyer, just let us know, okay?

14 A. Okay.

15 Q. Now, can you read Spanish?

16 A. Yes.

17 Q. How about English? Can you read any English?

18 A. I can't, but -- some words I don't understand.

19 Q. Okay. Mr. Aponte Camacho, were you arrested and charged in
20 federal court with narcotics and firearms offenses?

21 A. Yes.

22 Q. When were you arrested?

23 A. December 8th, 2016.

24 Q. And you're currently in custody today; is that right?

25 A. Yes.

1 Q. Have you been in custody since your arrest on
2 December 8th, 2016?

3 A. Yes.

4 Q. Would you tell the jury where you were arrested on
5 December 8th, 2016?

6 A. 54 Miller Street.

7 Q. Is that a house in the City of Rochester?

8 A. Yes.

9 Q. Were you outside or inside the house at 54 Miller Street
10 when you were arrested on December 8th, 2016?

11 A. Inside the house.

12 Q. Can you tell the jury what did you have with you inside 54
13 Miller Street at the time of your arrest on December 8th,
14 2016?

15 A. Almost 2 kilos of heroin and a gun.

16 Q. How did you get the heroin and the gun that you had with
17 you at 54 Miller Street?

18 A. I stole it.

19 Q. Who did you steal it from?

20 A. From Javi.

21 Q. And where did you take it from?

22 A. From Culver, a building on Culver.

23 Q. A building on Culver Road in the City of Rochester?

24 A. Yes.

25 Q. Did you agree to plead guilty and cooperate in connection

1 with the federal charges?

2 A. Yes.

3 Q. And what did you plead guilty to?

4 A. Possession of a kilo or more of heroin with the intent to
5 distribute, and possession and discharging a firearm in
6 furtherance of a drug crime.

7 Q. Have you been sentenced yet?

8 A. No.

9 Q. I'd like you to look at the binder in front of you. It
10 should be open to Government's Exhibit 341. Do you see that?

11 A. Yes.

12 Q. Do you recognize what Government's 341 is?

13 A. Yes.

14 Q. What is it?

15 A. The plea agreement.

16 Q. All right. If you can flip through that document and go to
17 the second to last page?

18 A. Okay.

19 Q. Does that page contain your signature as well as that of
20 your attorney's?

21 A. Yes.

22 Q. All right. Is Government's Exhibit 341 the plea agreement
23 that you entered into with the Government to resolve your
24 narcotics and firearms charges?

25 A. Yes.

1 Q. In that plea agreement did you agree to cooperate?

2 A. Yes.

3 Q. Are you testifying here today pursuant to the agreement to
4 cooperate that's contained in Government 341, the plea
5 agreement?

6 A. Can you repeat the question?

7 Q. Yes. Are you testifying here today pursuant to the
8 agreement to cooperate that's contained in the plea agreement
9 marked Government's 341?

10 A. Yes.

11 Q. All right. Would you mind telling the jury how old are
12 you? I think you told us already, was it 26?

13 A. 26.

14 Q. And where were you born and raised?

15 A. In Puerto Rico.

16 Q. Did there come a time when you came to Rochester?

17 A. Yes.

18 Q. About when was that?

19 A. December 31st, 2014.

20 Q. How old were you when you came to Rochester?

21 A. 19.

22 Q. Can you tell the jury why you came to Rochester when you
23 were 19 from Puerto Rico?

24 A. I was looking for a better life.

25 Q. All right. Have you been in Rochester ever since you came

1 in December of 2014?

2 A. I had left to New Jersey about three months after I got
3 here.

4 Q. All right. And did there come a time after that -- what
5 did you do in New Jersey?

6 A. I left with my dad and I worked at a barber shop there.

7 Q. You lived with your father in New Jersey?

8 A. Yes.

9 Q. Did there come a time when you came back to Rochester?

10 A. Yes.

11 Q. About when was that?

12 A. In April of 2015.

13 Q. And were you in Rochester from the time you came back in
14 about April of 2015 up until you were arrested in December of
15 2016?

16 A. Yes.

17 Q. All right. Mr. Aponte Camacho, can you tell the jury how
18 far did you get in school?

19 A. I stopped at 10th grade. So I finished 9th grade and then
20 I left school in 10th grade.

21 Q. So 9th grade was the last year you went to school?

22 A. Yes.

23 Q. And that was in Puerto Rico?

24 A. Yes.

25 Q. Did you have any educational classes after that?

1 A. Yes.

2 Q. What?

3 A. GED.

4 Q. When did you get your GED?

5 A. Last year in Yates County in jail.

6 Q. So after you were arrested in this case you studied and
7 got your GED while you were at Yates County Jail?

8 A. Yes.

9 Q. All right.

10 A. I also studied to be a barber. That was in Puerto Rico.

11 Q. All right. Tell us about your -- the training you
12 studied -- the training that you had to become a barber.

13 A. I finished a diploma, but I did not get my master license,
14 which is what you need to open a barber shop.

15 Q. All right. Can you tell the jury are you married or are
16 you single?

17 A. Single.

18 Q. Do you have any children?

19 A. Yes.

20 Q. What do you have?

21 A. One boy.

22 Q. How old is your son?

23 A. Four years.

24 Q. When you first came to Rochester did you know anyone?

25 A. Yes.

1 Q. Who did you know in Rochester?

2 A. My sister was here when I came. And her husband. And a
3 friend of mine called Obed Torres.

4 Q. Friend of yours named Obed Torres?

5 A. Yes.

6 Q. If we could show you Government's Exhibit 1. You see that
7 up on your screen?

8 A. Yes.

9 Q. Do you see your friend Obed Torres in Government's Exhibit
10 1?

11 A. Yes.

12 Q. If you touch the screen where his photo is, it should make
13 a mark. Can you show us which photo is Obed Torres? All
14 right, you've made a circle on the third row, the first
15 picture from the left; is that right?

16 A. Yes.

17 Q. How did you know Obed?

18 A. We went to school together in Puerto Rico.

19 Q. So how long have you known Obed?

20 A. Since around 2007 or 2008.

21 Q. All right. What was your relationship with Obed?

22 A. We were very good friends.

23 Q. All right. After you came back to Rochester in April or so
24 of 2015, did you get a job?

25 A. Yes.

1 Q. What work did you get?

2 A. At a barber shop.

3 Q. Where?

4 A. On Clinton and Avenue D.

5 Q. And what's the name of that barber shop?

6 A. Felix barber shop.

7 Q. Were you cutting hair at that barber shop?

8 A. Yes.

9 Q. Did you cut hair on the side as well?

10 A. Yes.

11 Q. You had your own clients then?

12 A. Yes.

13 Q. All right. Did there come a time when you became involved
14 in selling illegal drugs?

15 A. Yes.

16 Q. And about when was that?

17 A. Around May of 2015.

18 Q. Were you still involved in selling illegal drugs at the
19 time of your arrest in December of 2016?

20 A. Yes.

21 Q. Who did you work for while you were selling drugs between
22 May of 2015 and December of 2016?

23 A. For Javi.

24 Q. Do you see the person you know as Javi in Government's
25 Exhibit 1 that you worked for selling drugs between May of

1 2015 and December of 2016?

2 A. Yes.

3 Q. Can you circle his photograph? And let the record reflect
4 that the witness has circled the photograph at the top of the
5 screen.

6 Mr. Aponte Camacho, were you the only person
7 working for Javi selling drugs during the time that you worked
8 for him between May of 2015 and December of 2016?

9 A. No.

10 Q. Can you tell the jury the names or nicknames of some of
11 the other individuals that worked with you in selling drugs
12 for Javi between May of 2015 and December of 2016?

13 A. Leitscha, they called her La Flaca, the skinny one;
14 Robert; Obed; myself; Pistolita; Yankee; Tapon; Victor;
15 Palito; Dino; that's it as far as I can remember.

16 Q. All right. Are any of those people that you just testified
17 about who worked for Javi selling drugs between May of 2015
18 and December of 2016 here in court?

19 A. Yes.

20 Q. Would you point to the person and describe what they're
21 wearing?

22 A. White shirt.

23 MR. MARANGOLA: Your Honor, may the record reflect
24 Mr. Aponte Camacho's identification of the defendant?

25 THE COURT: Well, there's three people with a white

1 shirt. Which one are you talking about?

2 **THE WITNESS:** The one with the blue mask.

3 **THE COURT:** Yes, the record will note the
4 identification of the defendant Xavier Torres.

5 **BY MR. MARANGOLA:**

6 Q. Mr. Aponte Camacho, who is the person that you identified
7 in court as working for Javi selling drugs between May of 2015
8 and December of 2016?

9 A. Pistolita.

10 Q. Is that the name that you knew him by?

11 A. Yes.

12 Q. All right.

13 **MR. MARANGOLA:** Judge, I see it's a little bit
14 after 2. I want to keep going with Government's Exhibit 1,
15 unless the Court thinks we should stop now.

16 **THE COURT:** You can do that in a few minutes.

17 **MR. MARANGOLA:** Sure.

18 **THE COURT:** Let's do that.

19 **BY MR. MARANGOLA:**

20 Q. Mr. Aponte Camacho, are any of the people that were
21 involved in selling drugs for Javi between May of 2015 and
22 December of 2016 shown in this exhibit here marked
23 Government's Exhibit 1?

24 A. You ask me about the people selling drugs for Javi between
25 May 2015 and December 2016?

1 Q. Yes. Are any of the people that worked for Javi during
2 that time period shown in Government's Exhibit 1?

3 A. Yes.

4 Q. All right. Is this -- does Government's Exhibit 1 contain
5 every single person that worked for Javi during that time
6 period?

7 A. No.

8 Q. Okay. Are you familiar with each of the individuals shown
9 in Government's Exhibit 1?

10 A. Yes.

11 Q. All right. Based on your participation in working for
12 Javi's drug operation for this year and a half or so, can you
13 start at the top and describe, tell us each person that you
14 know, the nickname or name that they went by and what, if any,
15 role they played in the operation starting at the top.

16 A. Javi. He was the boss.

17 Q. Okay. You want to circle each photograph so we know
18 specifically -- all right, you circled the female below and to
19 the left of Javi?

20 A. Yes.

21 Q. Who is that?

22 A. Leitscha.

23 Q. What, if any, role did she have in Javi's operation?

24 A. She worked the table, she made deliveries, when someone
25 was on the street selling and they ran out of drugs she would

1 bring more drugs and take the money that they would give her.
2 She would count the money. And she would -- and she would
3 take it to Javi's mom's house to give it to Javi. She would
4 call -- make the calls to Puerto Rico to get -- to call the
5 people, the suppliers for them to send the drugs and to do all
6 the movement. She would find apartments for Javi so that he
7 could store the drugs or the weapons.

8 Q. All right. Who is next to Leitscha?

9 A. Robert.

10 Q. And you want to circle that photograph? You circled the
11 photograph in the second row on the right. Who is Robert?

12 A. He's Javi's brother.

13 Q. What, if any, role did he play in Javi's drug selling
14 operation while you participated in it?

15 A. He worked the table, he sold on the street on Burbank, if
16 Javi had any problems, he would go and show his face.

17 Q. All right. Let's go to the row below that, you circled
18 Obed's picture before. Did Obed participate in Javi's drug
19 operation?

20 A. Yes.

21 Q. Can you describe what you observed Obed's role to be
22 during the time you participated in Javi's drug operation?

23 A. He made deliveries, he sold, and worked the table.

24 Q. All right. Who is next to Obed? Can you circle that
25 photograph? Who is that?

1 A. Me.

2 Q. And can you tell the jury your role in Javi's drug
3 operation?

4 A. I sold on the street, and in the houses, and I work the
5 table.

6 Q. All right. Who is to the right of you in the third row?

7 A. Victor.

8 Q. What, if any, role did Victor have in Javi's drug
9 operation?

10 A. He sold on the street and in the houses and he worked the
11 table.

12 Q. Did Victor go by any other nicknames that you remember?

13 A. We called him Tuco.

14 Q. Why did you call him Tuco?

15 A. Because he had missing fingers.

16 Q. All right. Who is next to Victor in the third row? If you
17 can circle that photograph?

18 A. Pistolita.

19 Q. Is that the person you've identified in court a few
20 minutes ago?

21 A. Yes.

22 Q. Can you tell us what the defendant's role in Javi's drug
23 operation during the time you participated in it?

24 A. He sold at Burbank, on the street, and in front of some
25 houses, and he worked the table, and he made deliveries. He

1 would get drug deliveries who was selling and ran out of
2 drugs, he would deliver drugs and take the money.

3 Q. All right. What about the photo to the right of Pistolita?

4 A. Yankee.

5 Q. Can you tell us what Yankee's role was in Javi's drug
6 operation during the time you participated in it?

7 A. He made calls to Puerto Rico to move the drugs, calling
8 the suppliers. He sold on the street at Burbank. He work the
9 table. And he made deliveries for Mt. Morris, drug
10 deliveries.

11 Q. All right. And how about the photograph next to Yankee,
12 the last photograph on the third row?

13 A. Tapon.

14 Q. What, if any, role did Tapon play in Javi's drug operation
15 during the time you participated in it?

16 A. He sold on the street, at Burbank, and he sold in the
17 house, and he made deliveries.

18 Q. All right. Let's go to the bottom row starting with the
19 person on the bottom left. Do you recognize that person?

20 A. No.

21 Q. All right. How about the person next to -- from the left
22 the second photo on the bottom row, the person wearing the red
23 shirt, do you recognize that person?

24 A. I was gonna tell you about the first picture on the left,
25 I didn't recognize his face, but when he died I went to his

1 burial. But I didn't know him.

2 Q. You did or did not know him?

3 A. I did not know him.

4 Q. And who is he?

5 A. Rafi.

6 Q. Okay. How about the photo to the right of Rafi?

7 A. Palito.

8 Q. What, if any, role did he play in Javi's drug operation
9 during the time you participated in it?

10 A. He was an addict. They used him as a watchman to keep
11 watch for when the police would come.

12 Q. What's a watchman?

13 A. Yeah, he would watch. He would -- when the police came,
14 he would let the person who was selling know that the police
15 was there.

16 Q. Like a lookout?

17 A. Yes.

18 Q. Okay. What about the person next to him in the white shirt
19 to the right?

20 A. He was an addict, sometimes he sold and also he was a
21 lookout.

22 Q. What's his name, the person in the white shirt?

23 A. Dino.

24 Q. And I don't recall, did you tell us the person's name in
25 the red shirt there next to him?

1 A. Yes, Palito.

2 Q. Okay. And, finally, do you know the individual in the
3 bottom right corner with the yellow shirt in the bottom row?

4 A. Yes.

5 Q. Can you circle that photograph and tell us who that is?

6 A. Cano.

7 Q. Cano?

8 A. Yes.

9 Q. What, if any, role did Cano play in Javi's drug operation
10 during the time you worked there?

11 A. When I was working he was no longer working, but I did see
12 him when I would go around with Obed, I would see him selling
13 on the streets.

14 Q. When you were with Obed before you started working?

15 A. Before I was working, Obed was already working. He would
16 make deliveries. He would make deliveries to him when he ran
17 out of drugs.

18 Q. So this person you identified as Cano on the bottom right
19 was selling drugs on Burbank?

20 A. Yes.

21 Q. As part of Javi's operation?

22 A. Yes.

23 Q. All right.

24 **THE COURT:** Thank you.

25 **MR. MARANGOLA:** Thank you, Judge.

1 **THE COURT:** Ladies and gentlemen, at this time we're
2 going to recess until tomorrow. We have a couple short days
3 coming up. Tomorrow, Wednesday we'll be in session from 9:30
4 until 11:30; and Thursday from 8:30 to 11:30; we have no
5 session on Friday of this week.

6 With that understanding the jury may step down
7 until 9:30 tomorrow morning. Thanks for your patience in
8 staying late today. Have a good evening.

9 (WHEREUPON, the jury was excused).

10 **THE COURT:** Thank you. Have a good night.

11 **MR. MARANGOLA:** Thank you.

12 **MR. VERRILLO:** Thank you, Judge.

13 (WHEREUPON, proceedings adjourned at 2:14 p.m.)

14 * * *

15 **CERTIFICATE OF REPORTER**

16
17 In accordance with 28, U.S.C., 753(b), I certify that
18 these original notes are a true and correct record of
19 proceedings in the United States District Court for the
20 Western District of New York before the Honorable Frank P.
21 Geraci, Jr. on October 26th, 2021.

22
23 S/ Christi A. Macri

24 Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)
25 Official Court Reporter